

ORDINANCE NO. _____

AN ORDINANCE REGULATING LANDSCAPE MAINTENANCE PRACTICES AND THE USE OF FERTILIZERS CONTAINING NITROGEN AND/OR PHOSPHORUS WITHIN PINELLAS COUNTY; PROVIDING FOR ENFORCEMENT AND PENALTY; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE, INCLUDING AN IMPLEMENTATION PERIOD; AND PROVIDING FOR OTHER MODIFICATIONS THAT MAY ARISE FROM REVIEW OF THE ORDINANCE AT THE PUBLIC HEARING AND WITH RESPONSIBLE AUTHORITIES.

WHEREAS, the Florida Department of Environmental Protection has identified specific water bodies in Pinellas County as “impaired” as a result of excess nutrients under the Florida Impaired Waters Rule (Chapter 62-303, Florida Administrative Code); and

WHEREAS, state and federal limits on the amount of nutrients permitted in designated impaired waters, including significant portions of the Tampa Bay and Gulf of Mexico ecosystems, may require local governments to make significant investments in water quality improvement projects; and

WHEREAS, surface water and baseflow runoff containing excess nutrients from residential neighborhoods, commercial centers, and other lands of Pinellas County enter into natural and artificial stormwater and drainage conveyances and natural water bodies in Pinellas County; and

WHEREAS, nutrients are commonly found in various forms as a fertilizer for turf and landscape application and if applied improperly, may contribute to pollution in natural water bodies; and

WHEREAS, it is recognized that properties irrigating with reclaimed water require less fertilization; and

WHEREAS, nutrient-laden runoff containing nitrogen and phosphorous fosters undesirable plant and algae growth in natural water bodies resulting in poor water quality; and

WHEREAS, the detrimental effects of nutrient-laden runoff are magnified in a coastal community such as Pinellas County, due to the proximity of stormwater and drainage conveyances to coastal and estuarine waters; and

WHEREAS, the quality of our streams, lakes, rivers, Tampa Bay and the Gulf of Mexico is critical to environmental, economic, and recreational prosperity and to the health, safety, and welfare of the citizens of Pinellas County; and

WHEREAS, this ordinance is part of a multi-pronged effort by Pinellas County to reduce nutrient leaching and runoff through such policies as, but not limited to, stormwater management, water conservation, conversion from septic systems to central sewage treatment, public education, and development standards as set forth in the Pinellas County Land Development Regulations.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PINELLAS COUNTY, FLORIDA:

SECTION 1. The Pinellas County landscape maintenance and fertilizer use and application ordinance is hereby created to read as follows:

Section 1. Findings of Fact.

As a result of adverse impacts to Pinellas County waters caused by excessive nutrients resulting from improper landscape maintenance practices and the incorrect or unnecessary application of fertilizers containing phosphorus and/or nitrogen, the Pinellas County Board of County Commissioners has determined that the lands and waters of Pinellas County are at particularly high risk for adverse effects to surface and ground water from such fertilizer containing phosphorus and/or nitrogen not applied in accordance with best management practices established by the Florida Department of Environmental Protection and the University of Florida Institute of Agricultural Sciences.

Section 2. Purpose and Intent.

This ordinance regulates the proper use of fertilizers by any applicator and requires proper training of commercial and institutional fertilizer applicators and landscape maintenance companies by establishing a restricted season for fertilizer application, fertilizer-free zones, low maintenance zones, exemptions, training and licensing requirements. The ordinance requires the use of best management practices which provide specific management guidelines to minimize negative secondary and cumulative environmental effects associated with the misuse of fertilizers and improper landscape maintenance practices. These secondary and cumulative effects have been observed in and on Pinellas County's natural and artificial stormwater and drainage conveyances, rivers, lakes, canals, estuaries, interior freshwater wetlands, and Tampa Bay. Collectively, these water bodies are an asset critical to the environmental, recreational, cultural and economic well-being of Pinellas County residents and the health of the public. Overgrowth of algae and vegetation hinder the effectiveness of flood attenuation provided by natural and artificial stormwater and drainage conveyances. Regulation of nutrients, including both phosphorus and nitrogen contained in fertilizer, will help improve and maintain water and habitat quality.

Section 3. Definitions.

For this Article, the following terms shall have the meanings set forth in this section unless the context clearly indicates otherwise.

Administrator means the Pinellas County Administrator, or an administrative official of Pinellas County government designated by the County Administrator to administer and enforce the provisions of this Article.

Application or *Apply* means the actual physical deposit of fertilizer to turf or landscape plants.

Applicator means any person who applies fertilizer on turf and/or landscape plants in Pinellas County.

Article means Chapter ____, Article ____ of the Pinellas County Code of Ordinances, as amended, unless otherwise specified.

Board means the Board of County Commissioners of Pinellas County, Florida.

Best Management Practices or *BMP* means turf and landscape practices which minimize the negative environmental impacts of installation and maintenance of landscapes.

Code Enforcement Officer, Official, or Inspector means any designated employee or agent of Pinellas County whose duty it is to enforce codes and ordinances enacted by Pinellas County.

Commercial Fertilizer Applicator means any person who applies fertilizer on turf and/or landscape plants in Pinellas County in exchange for money; goods, services or other valuable consideration.

Fertilize, Fertilizing, or Fertilization means the act of applying fertilizer to turf, specialized turf, or landscape plants.

Fertilizer means any substance or mixture of substances, including pesticide/fertilizer mixtures such as "weed and feed" products, that contains one or more recognized plant nutrients and promotes plant growth, or controls soil acidity or alkalinity, or provides other soil enrichment, or provides other corrective measures to the soil.

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

Impervious Surface means a surface that has been compacted or covered with a layer of material so that it is highly resistant or prevents infiltration by stormwater. It includes roofed areas and surfaces such as compacted sand, limerock, or clay, as well as conventionally surfaced streets, sidewalks, parking lots, and other similar surfaces.

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

Landscape Maintenance means activities carried out to manage and maintain landscape plants including but not limited to mowing, edging, and trimming

Low Maintenance Zone means an area a minimum of six (6) feet wide adjacent to water courses which is planted with non-turf grass vegetation and managed in order to minimize the need for fertilization, watering, mowing, etc.

Pasture means land used for livestock grazing that is managed to provide feed value.

Person means any human being, business, corporation, limited liability company, partnership, limited partnership, association, club, organization, and/or any group of people acting as an organized entity.

Pinellas County Approved Best Management Practices Training Program means a training program approved by the Pinellas County Administrator that includes, at a minimum, the most current version of the "Florida Green Industries Best Management Practices for Protection of Water Resources in Florida, December 2008," as revised, and the more stringent requirements set forth in this Article.

Restricted Season means June 1st through September 30th.

Site Supervisor means the direct supervisor of an applicator.

Slow or Controlled Release fertilizer means a fertilizer containing a plant nutrient in a form which delays its availability for plant uptake and use after application, or which extends its availability to the plant significantly longer than a referenced "rapidly available nutrient fertilizer."

Specialized Turf means areas of grass used for athletic fields, golf course practice and play areas, and other similar activities.

Specialized Turf Manager means a person responsible for fertilizing or directing the fertilization of specialized turf.

Surface Water means fresh, brackish, saline or tidal waters, including but not limited to bays, rivers, lakes, streams, wetlands, springs, impoundments, as well as canals and other artificial water bodies.

Top of Bank means the point of inflection between the horizontal line representing the surrounding land surface and the inclined line defining the slope of the bank.

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

Vegetable Garden means an area dedicated to the cultivation of edible plants.

Section 4. Applicability.

This Ordinance shall be applicable to and shall regulate any and all applicators of fertilizer, areas of application of fertilizer, and landscape maintenance activities within Pinellas County, unless such applicator or activity is specifically exempted by the terms of this Ordinance from the regulatory provisions of this Ordinance.

Section 5. Timing of Application.

No applicator shall apply fertilizers containing nitrogen and/or phosphorous to turf and/or landscape plants during the restricted season.

Section 6. Fertilizer Content and Application Rate.

- a) Fertilizer containing phosphorus shall not be applied to turf and/or landscape plants within Pinellas County at any time unless a soil and/or tissue test conducted by UF/IFAS demonstrates a phosphorus deficiency and the type of landscape material that is intended to be planted requires phosphorus.
- b) Nitrogen fertilizer shall not be applied on newly established turf or new landscape plants for the first 30 days.
- c) Fertilizers sold and applied to turf and/or landscape plants within Pinellas County shall contain no less than 50% slow release nitrogen per guaranteed analysis label.
- d) Fertilizers shall be applied to turf and/or landscape plants at the lowest recommended rate per the Florida Green Industries Best Management Practices for Protection of Water Resources in Florida, December 2008," as revised. No more than four (4) pounds of nitrogen per 1000 ft² shall be applied to any turf/landscape area in any calendar year.

Section 7. Impervious Surfaces and Mode of Application.

- a) Fertilizer shall not be applied or otherwise deposited on any impervious surfaces. Any fertilizer applied or deposited, either intentionally or accidentally, on any impervious surface shall be immediately and completely removed to the greatest extent practicable. Fertilizer released on an impervious surface must be immediately contained and either legally applied to turf or any other legal site, or returned to the original or other appropriate container. In no case shall fertilizer be washed, swept, or blown off impervious surfaces into stormwater drains, ditches, drainage conveyances, roadways, or surface waters.
- b) Spreader deflector shields are required when applying fertilizer by use of any broadcast or rotary spreaders. Deflector shields must be positioned such that fertilizer granules are deflected away from all impervious surfaces and surface waters.

Section 8. Fertilizer-Free Zones.

Fertilizer shall not be applied within ten (10) feet from the top of bank of any surface water or from the top of a seawall. If more stringent Pinellas County Code regulations apply, this provision does not relieve the requirement to adhere to the more stringent regulations.

Section 9. Management of Grass Clippings and Vegetative Material.

In no case shall grass clippings, vegetative material, and/or vegetative debris either intentionally or accidentally, be washed, swept, or blown off into stormwater drains, ditches, drainage conveyances, surface waters, or roadways.

Section 10. Exemptions.

- a) The provisions set forth above in Sections 5 and 6 of this Ordinance shall not apply to:
 - 1) Golf courses. For all golf courses, the provisions of the Florida Department of Environmental Protection (FDEP) document, "BMPs for the Enhancement of Environmental Quality on Florida Golf Courses, January 2007," as updated, are required and shall be followed when applying fertilizer to golf courses. Failure to follow the approved BMP documents referenced above may result in enforcement per Section 13 of this ordinance.
 - 2) Specialized turf managers are required to follow the Best Management Practices embodied in the "Florida Green Industries Best Management Practices for Protection of Water Resources in Florida, December 2008," as updated.

Failure to follow the approved BMP documents referenced above may result in enforcement per Section 13 of this ordinance.

- 3) Bona fide farm operations as defined in the Florida Right to Farm Act, Section 823.14, Florida Statutes.
 - 4) Vegetable gardens, owned by individual property owners or a community, provided that fertilizer application rates do not exceed UF/IFAS recommendations per SP103 Florida Vegetable Gardening Guide, December 2008, as revised.
 - 5) Yard waste compost, mulches, or other similar materials that are primarily organic in nature and are applied to improve the physical condition of the soil.
- b) Nitrogen or phosphorus fertilizer may be applied to turf or landscape plants during the restricted period if a tissue deficiency for nitrogen and/or phosphorus or a soil test for phosphorus has been conducted by UF/IFAS and a nitrogen or phosphorus deficiency is confirmed. Approved one-time application rates under these conditions are as follows: 1lb / 1,000 ft² of nitrogen or 0.25lbs P₂O₅ / 1,000 ft². The property owner or other person having custody or control of the property shall present the UF/IFAS certificate of analysis to any authorized official of the Board, upon request.
 - c) Fertilizer wholesalers may sell products containing nitrogen and/or phosphorus to specialized turf managers during the restricted period for use on golf courses and athletic fields.

Section 11. Certification and Training.

- a) All site supervisors and managers of professional lawn care companies, as well as government and institutional landscape supervisors shall abide by and successfully complete a County approved best management practices training program within three hundred and sixty five (365) days of adoption of this ordinance. For Applicators, this training shall include the most current version of the "Florida Green Industries Best Management Practices for Protection of Water Resources in Florida, June 2002," as revised, and shall include the more stringent requirements set forth in Sections 3 through 13 of this Article. A list of approved training programs shall be maintained by County on the County Extension website. Upon successful completion, a Certificate of Completion will be provided. Applicators and landscape maintenance staff are required to keep a copy of the Certificate of Completion with them during application and landscape maintenance activities and shall present the Certificate to any authorized official of the Board, upon request.

- b) Employees of lawn and landscape maintenance companies who are not site supervisors or managers shall also be trained in the above-referenced BMPs by an State certified BMP trainer, the company, or a contractor of the company within ninety (90) days of being employed by the company. Such training may be provided by a BMP-certified site supervisor or manager employed by the company. Training shall be required of all personnel of such companies within six (6) months of the adoption of new or revised BMPs or local ordinance requirements. Landscape maintenance companies shall maintain written records of compliance with this provision and shall present training records to any authorized official of the Board, upon request.
- c) A vehicle decal issued by Pinellas County indicating that the company is in compliance with the training and certification requirements herein shall be affixed and maintained on the exterior of all vehicles and/or trailers used by the company in connection with landscape maintenance activities and/or the application of fertilizer within the area regulated by this Article. The vehicle and trailer decals shall be provided by Pinellas County upon submittal of demonstration of compliance of the company with the requirements herein.
- d) Certifications issued to employees of lawn and landscape maintenance companies by other Tampa Bay communities with equivalent ordinances will be recognized in Pinellas County as meeting the certification and training requirements herein.

Section 12. Sale of Fertilizer Containing Nitrogen or Phosphorous.

- a) Effective three hundred and sixty five days (365) days from adoption of this ordinance, no person, firm, corporation, franchise, or commercial establishment shall sell any lawn or landscape fertilizer, liquid or granular, within Pinellas County that contains any amount of nitrogen or phosphorous during the restricted season.
- b) Displays of lawn and landscape fertilizers containing nitrogen or phosphorous shall not be allowed on the sales area of the store during the restricted season.
- c) Retailers shall post a notice stating that the use of lawn and landscape fertilizers in Pinellas County is restricted in accordance with this ordinance.

Section 13. Enforcement and penalty.

Violations of this ordinance may be punished as provided for in Section 1-8 of the Pinellas County Environmental Enforcement Act.

Section 14. Recommendations and Additional Information

- a) A voluntary six (6) foot low-maintenance, “no-mow” zone is recommended, but not mandated, from any above-described surface water or from the top of a seawall to reduce the potential for fertilizer residue entering such water bodies and wetlands. If more stringent Pinellas County Code regulations apply, this provision does not relieve the requirement to adhere to the more stringent regulations. No vegetative material shall be deposited or left remaining in this zone or in the water. Care should be taken to prevent the overspray of aquatic weed products in this zone.
- b) It is recommended that the application of fertilizer for properties using reclaimed water service be reduced in accordance with the nutrient level contained in the reclaimed water. This information is available through the Pinellas County Utilities Department and through the Pinellas County web site.
- c) The County strongly recommends the establishment of training programs using Spanish-speaking certified BMP trainers.
- d) The County recommends that private homeowners become familiar with and utilize the recommendations of the University of Florida IFAS Florida Yards and Neighborhoods program when applying fertilizer.

Section 15. Severability Clause.

If any section, sentence, clause, phrase, or word of this Ordinance is, for any reason, held or declared to be unconstitutional, inoperative or void, such holding or invalidity shall not affect the remaining portions of this Ordinance, and it shall be construed to be the legislative intent to pass this Ordinance without such unconstitutional, invalid or inoperative part therein.

Section 16. Effective Date.

Pursuant to Section 125.66, Florida Statutes, a certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners. This Ordinance shall become effective when the acknowledgment is received from the Secretary of State that the Ordinance has been duly filed.

Section 17. Inclusion Clause.

The provisions of this Ordinance shall be included and incorporated in the Pinellas County Code, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Pinellas County Code.