

ORDINANCE NO. 2016-____

SEMINOLE COUNTY, FLORIDA

2 **AN ORDINANCE AMENDING CHAPTER 270, “WATER AND SEWER”,**
 4 **SEMINOLE COUNTY CODE, BY ADDING PART 12, “PROPER USE OF**
 6 **FERTILIZERS”; REGULATING THE PROPER USE OF FERTILIZERS**
 8 **BY ANY APPLICATOR; PROVIDING DEFINITIONS; PROVIDING**
 10 **LEGISLATIVE FINDINGS; PROVIDING FOR APPLICABILITY WITHIN**
 12 **SEMINOLE COUNTY; ESTABLISHING A PROHIBITED APPLICATION**
 14 **PERIOD; SPECIFYING ALLOWABLE FERTILIZER APPLICATION**
 16 **RATES AND METHODS, FERTILIZER-FREE ZONES, LOW**
 18 **MAINTENANCE ZONES, AND EXEMPTIONS; REQUIRING THE USE**
 20 **OF BEST MANAGEMENT PRACTICES WHICH PROVIDE SPECIFIC**
 22 **MANAGEMENT GUIDELINES TO MINIMIZE NEGATIVE SECONDARY**
 24 **AND CUMULATIVE ENVIRONMENTAL EFFECTS ASSOCIATED WITH**
 THE MISUSE OF FERTILIZERS WHICH HAVE BEEN OBSERVED IN
 AND ON SEMINOLE COUNTY’S NATURAL AND CONSTRUCTED
 STORMWATER CONVEYANCES, RIVERS, CREEKS, CANALS,
 SPRINGS, LAKES AND OTHER WATERBODIES; REQUIRING PROPER
 TRAINING OF COMMERCIAL AND INSTITUTIONAL FERTILIZER
 APPLICATORS; ESTABLISHING TRAINING AND LICENSING
 REQUIREMENTS; PROVIDING FOR ENFORCEMENT AND
 PENALTIES; AMENDING CHAPTER 53, “CODE ENFORCEMENT”,
 SEMINOLE COUNTY CODE, TO PROVIDE FOR PENALTIES;
 PROVIDING FOR CODIFICATION IN THE SEMINOLE COUNTY
 CODE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN
 EFFECTIVE DATE.

26 **WHEREAS**, pursuant to 33 U.S.C. § 1313(d) (2016) of the Federal Clean Water Act and
 the resulting Florida Impaired Waters Rule, Chapter 62-303, Florida Administrative Code (2016),
 28 the Florida Department of Environmental Protection (“FDEP”) has classified specific waterbodies
 in Seminole County as “impaired” as a result of the presence of excess nutrients; and

30 **WHEREAS**, the Seminole County National Pollutant Discharge (NPDES) Municipal
 Separate Storm Sewer System (MS4) Permit No. FLS000038, issued by the Florida Department
 32 of Environmental Protection under authority delegated to it by the United States Environmental
 Protection Agency, mandates the adoption of a fertilizer ordinance that includes all of the
 34 requirements set forth in the Florida Department of Environmental Protection’s Model Ordinance

for Florida-Friendly Fertilizer Use on Urban Landscapes pursuant to Section 403.9337, Florida Statutes (2016), by December 31, 2013 (the “Model Ordinance”); and

WHEREAS, the Florida Department of Environmental Protection has informally extended the time for Seminole County to adopt the subject ordinance with the understanding that Seminole County will adopt the ordinance as soon as practical; and

WHEREAS, it is the intent of the Board of County Commissioners to adopt the instant Ordinance consistent with the terms of the Model Ordinance and the principle purposes of the instant Ordinance are to receive credits and otherwise comply with all applicable Total Maximum Daily Loads (TMDLs) and Basin Management Action Plans (BMAPs),

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

Section 1. Chapter 270, “Water and Sewer,” Seminole County Code is hereby amended by the addition of Part 12, “Proper Use of Fertilizers,” which reads as follows:

PART 12. PROPER USE OF FERTILIZERS

Sec. 270.461. Definitions. For this Part 12, the following terms have the meanings set forth in this Section unless the context clearly indicates otherwise.

Applicator. Any Person who applies Fertilizer on Turf, Landscape Plants or both in Seminole County.

Board. The Board of County Commissioners of Seminole County, Florida.

Best Management Practices or BMPs. Turf and landscape practices (or combination of practices based on research, field-testing, and expert review) determined to be the most effective and practicable on-location means, including economic and technological considerations, for improving water quality, conserving water supplies and protecting natural resources.

58 Code Enforcement Officer. The definition of “Code Enforcement Officer” in Section
53.21 of this Code applies to this Part 12.

60 Commercial Fertilizer Applicator. Except as provided in Section 482.1562(9), Florida
Statutes (2016), as this statute may be amended from time to time, any person who applies
62 Fertilizer for payment or other consideration to property not owned by the person or firm applying
the Fertilizer or the employer of the Applicator.

64 County Manager. The Seminole County Manager, or an administrative official of
Seminole County government designated by the County Manager to administer and enforce the
66 provisions of this Part 12.

Damage or Damaged. Turf or Landscape Plants that have been deleteriously affected by
68 environmental or biotic stress. Environmental stresses are a result of prolonged exposure to shade,
drought, nutrient deficiency, the effects of vehicle and foot traffic, salinity and occasional cold
70 temperatures. Biotic stresses result from living organisms such as insects, diseases or nematodes.

Fertilize, Fertilizing, or Fertilization. The act of applying Fertilizer to Turf, specialized
72 Turf, or Landscape Plants.

Fertilizer. Any substance or mixture of substances that contains one or more recognized
74 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. See Section 270.469 of this Part
76 12 for exemptions and exceptions to Fertilizers covered under this Part 12.

Guaranteed Analysis. The percentage of plant nutrients or measures of neutralizing
78 capability claimed to be present in a Fertilizer.

Heavy Rain. Rainfall greater than or equal to 2 inches in a 24 hour period.

80 Institutional Fertilizer Applicator. Any person, other than a private, non-commercial or a
Commercial Fertilizer Applicator, that applies Fertilizer for the purpose of maintaining Turf,
82 Landscape Plants or both. Institutional Fertilizer Applicators include, but are not limited to,
owners, managers or employees of public lands, schools, parks, religious institutions, utilities,
84 industrial or business sites and any residential properties maintained in condominium or common
ownership.

86 Landscape Plant. Any native or exotic tree, shrub, or groundcover (excluding Turf).

Low Maintenance Zone. A minimum of ten (10) feet wide area adjacent to ponds, streams,
88 water courses, lakes, wetlands or tops of sea-walls that is planted and managed in order to minimize
the need for watering or mowing.

90 Person. Any natural person, business, corporation, limited liability company, partnership,
limited partnership, association, club, organization, or any group of people acting as an organized
92 entity.

Prohibited Application Period. The time period during which: (1) a Flood Watch or
94 Warning, or a Tropical Storm Watch or Warning, or a Hurricane Watch or Warning is in effect for
any portion of Seminole County, as issued by the National Weather Service; (2) Heavy Rain is
96 likely; or (3) the soil is saturated.

Restricted Season. The period from June 1st through September 30th.

98 Saturated Soil. A soil in which the voids are filled with water. Saturation does not require
flow. For the purposes of this Part 12, soils are considered saturated if standing water is present or
100 the pressure of a person standing on the soil causes the release of free water.

Slow Release. Nitrogen in a form which delays its availability for plant uptake and use
102 after application, or which extends its availability to the plant longer than a reference rapid or quick

release product. Slow Release also includes Controlled Release, Timed Release, Slowly Available,
104 or Water Insoluble Nitrogen as these terms may be used on purchased Fertilizer.

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

106 Urban Landscape. Pervious areas on residential, commercial, industrial, institutional,
highway rights-of-way, or other nonagricultural lands that are planted with Turf or horticultural
108 plants.

Sec. 270.462. Legislative Findings. The Board of County Commissioners hereby finds
110 the following:

(a) State and federal limits on the amount of nutrients permitted in designated impaired
112 waters, including several waterbodies throughout Seminole County, may require local
governments to make significant investments in water quality improvement projects.

114 (b) This Part 12 is part of a multi-pronged effort by Seminole County to reduce nutrient
leaching and runoff through improved stormwater management, water conservation efforts, and
116 public education.

(c) Surface water runoff and baseflow runoff leave residential neighborhoods,
118 commercial centers, industrial areas, and other lands of Seminole County and enter into natural
and artificial stormwater and drainage conveyances and natural waterbodies in Seminole County.

120 (d) Phosphorus and nitrogen, the primary nutrients associated with the degradation of
groundwater and surface water, are commonly the primary components of Fertilizer for Turf
122 application.

(e) Leaching and runoff of nutrients from improper or excess Fertilization practices
124 contribute to nitrogen and phosphorus loading in Seminole County’s stormwater conveyances and

126 natural waterbodies, and thus to the overgrowth of algae and nuisance vegetation in these waterways.

(f) Seminole County’s natural and artificial stormwater and drainage conveyances regulate the flow of stormwater to prevent flooding and undesired accumulations of water.

130 (g) The overgrowth of algae and nuisance vegetation in stormwater and drainage conveyances hinders the goal of flood prevention and proper water conduction.

132 (h) The quality of streams, lakes, and wetlands is critical to environmental, economic, and recreational prosperity and to the health, safety, and welfare of the residents of Seminole County.

134 (i) Recent algae blooms and accelerated growth of nuisance aquatic weeds in Seminole County’s waterbodies have heightened community concerns about water quality and
136 eutrophication of surrounding waters, that is, an excessive accumulation of nutrients that supports a dense growth of algae and other organisms, the decay of which depletes their surrounding waters
138 of oxygen.

(j) The amount of Fertilizer applied to a given landscape and the method of application
140 have potential for creating nutrient pollution.

(k) It is recognized that properties irrigating with reclaimed water may require less
142 Fertilization.

(l) Fertilizer should only be appropriately applied to healthy Turfgrass. Turfgrass that
144 is Damaged, stressed or dominated by weeds will not efficiently uptake the nutrients in the Fertilizer and application of Fertilizer to Damaged Turfgrass may result in increased leaching,
146 runoff or both.

148 (m) It is generally recognized that Florida soils naturally have a suitable phosphorus content for most vegetative needs and that phosphorus is therefore rarely needed to create or maintain a vibrant landscape.

150 (n) Applying Fertilizers containing nitrogen and phosphorus prior to Heavy Rains or to Saturated Soil conditions will promote runoff and leaching, rather than allow the time and appropriate conditions for the Turf and Landscape Plants to efficiently utilize the nitrogen and phosphorus in the Fertilizer.

154 (o) Grass should only be Fertilized when it is actively growing because this is when the grass makes the best use of the Fertilizer’s nutrients. Fertilization during times of dormancy, typically the winter months, may contribute to nutrient leaching or runoff because the grass has less root system and, therefore, less ability to take up nutrients. Fertilizing should be avoided during the Turf’s dormant period, because dormant Turf does not efficiently utilize the Fertilizer. The optimal time to apply a long-term Controlled Release Fertilizer product is in early April (approximately April 1 - April 15). Florida-friendly yard products that contain iron, potassium or other micronutrients may be used during the Restricted Season.

162 (p) Low Maintenance Zones adjacent to any pond, stream, water course, lake, wetland or from the top of a seawall should be used, but are not mandated.

164 (1) Low Maintenance Zones should be planted and managed in such a way as to minimize the need for watering, mowing and other active maintenance. Plants may be selected from the UF/IFAS Florida-Friendly Plant List (<http://fyn.ifas.ufl.edu>) or the recommendation of a UF/IFAS Extension office.

168 (2) A swale or berm system or other appropriate Best Management Practice is
recommended for installation at the landward edge of any Low Maintenance Zone to capture and
170 filter runoff.

 (3) When mowing near the shoreline, the chute should be directed away from
172 the waterbody to avoid grass clippings being blown into the waterbody.

 (4) Care should be taken to prevent erosion of the surface soil. Excessive
174 erosion may be a greater pollution hazard than occasional proper applications of Fertilizer.

 (q) As of January 1, 2014, all Commercial and Institutional Fertilizer Applicators
176 within Seminole County are required by State law to abide by and successfully complete the six-
hour training program in the “Florida-Friendly Best Management Practices for Protection of Water
178 Resources by the Green Industries” offered by the Florida Department of Environmental
Protection through the University of Florida Extension “Florida-Friendly Landscapes” program,
180 or an approved equivalent. Information on the training program may be found at
<http://fyn.ifas.ufl.edu>.

 (r) Private, non-commercial Applicators should follow the recommendations of the
182 University of Florida IFAS Florida-Friendly Landscaping program when applying Fertilizers.

184 **Sec. 270.463. Applicability.** This Part 12 applies only in unincorporated Seminole
County and applies to and regulates any and all Applicators of Fertilizer and areas of application
186 of Fertilizer, unless the Applicator is specifically exempted by the terms of this Part 12, including
the exemptions as set forth in Section 270.469, below. This Part 12 applies only prospectively and
188 is not intended to impair any existing contracts.

Sec. 270.464. Weather and Seasonal Restrictions. No Applicator may apply

190 Fertilizers containing nitrogen or phosphorus to Turf or Landscape Plants during the Prohibited
Application Period, during the Restricted Season, or to Saturated Soils.

192 **Sec. 270.465. Fertilizer Content and Application Rate.**

(a) Fertilizers applied to Turf or Landscape Plants within Seminole County must be
194 formulated and applied in accordance with requirements and directions provided by Rule 5E-
1.003, Florida Administrative Code (2016), concerning Labeling Requirements for Urban Turf
196 Fertilizers, as this regulation may be amended from time to time.

(b) Fertilizers must be applied to Turf and Landscape Plants at the recommended rate
198 according to the most updated version of “Florida Green Industries Best Management Practices
for Protection of Water Resources in Florida.”

(c) No Fertilizer containing nitrogen may be applied to Turf unless at least fifty percent
200 (50%) of its nitrogen content is Slow Release as indicated on the Guaranteed Analysis label.

(d) Fertilizer may not be applied before seeding or sodding a site, and must not be
202 applied for thirty (30) days after seeding or sodding, except when hydro-seeding for temporary or
204 permanent erosion control in an emergency situation (e.g., wildfire), or in accordance with the
Stormwater Pollution Prevention Plan for that site. New Sod does not efficiently uptake Fertilizer
206 since the root zones are not established. Sod is typically Fertilized prior to harvest so the Turf
quality and establishment time should not be compromised by lack of Fertilization.

(e) The above referenced application rates must be reduced appropriately on properties
208 where reclaimed wastewater is used for irrigation based on available nutrients in the reclaimed
210 water as reported by the provider of the reclaimed water.

(f) Phosphorus Fertilizer must not be applied to Turf or Landscape Plants except as provided in subsections (a) – (c) above for Turf, or in UF/IFAS recommendations for Landscape Plants unless a soil or tissue deficiency has been verified by a test approved by UF/IFAS. Soil and tissue tests for phosphorus are normally done by UF/IFAS or another accredited laboratory.

Sec. 270.466. Mode of Application.

(a) Spreader deflector shields are required when Fertilizing via rotary (broadcast) spreaders. Deflectors must be positioned such that Fertilizer granules are deflected away from all impervious surfaces, Fertilizer-Free Zones, as described in Section 270.467 below, and waterbodies, including wetlands.

(b) Any Fertilizer applied, spilled, or deposited, either intentionally or accidentally, on any impervious surface must be: (i) immediately and completely removed to the greatest extent practicable; (ii) contained and either legally applied to Turf or any other legal site; or (iii) returned to the original or other appropriate container.

(c) In no case may Fertilizer be washed, swept, or blown off impervious surfaces into stormwater drains, ditches, conveyances, or water bodies.

Sec. 270.467. Fertilizer-Free Zones. No Fertilizer may be applied within ten (10) feet of any lake, pond, stream, water body, water course or canal. Additionally, no Fertilizer may be applied within ten (10) feet of any wetland as defined by the Florida Department of Environmental Protection in Chapter 62-340, Florida Administrative Code (2016), as it may be amended or superseded.

Sec. 270.468. Grass Clippings and Vegetative Material/Debris. In no case may grass clippings, vegetative material or vegetative debris be washed, swept, or blown off into stormwater

drains, ditches, conveyances, waterbodies, wetlands, or sidewalks or roadways. Any material that
234 is accidentally so deposited must be removed immediately to the maximum extent practicable.

Sec. 270.469. Exemptions; Exceptions.

236 (a) This Part 12 does not apply to any bona fide farm operation that Seminole County
is without authority to regulate with regard to Fertilizer application pursuant to the Florida Right
238 to Farm Act, Section 823.14, Florida Statutes (2016), as this statute may be amended from time to
time, or other applicable state law.

240 (b) This Part 12 does not apply to golf courses or sports Turf areas at parks and athletic
fields, provided however, Fertilizers labeled for sports Turf at golf courses, parks and athletic fields
242 must comply with the following, as applicable:

(1) As to golf courses and athletic fields, Fertilizer must have directions for use
244 not to exceed rates recommended in the most recently updated version of the document titled
SL191, “Recommendations for N, P, K and Mg for Golf Courses and Athletic Field Fertilization
246 Based on Mehlich III Extractant,” which is hereby adopted and incorporated by reference into this
Part 12. Copies may be obtained from the Soil and Water Science Department, Florida Cooperative
248 Extension Service, Institute of Food and Agricultural Sciences, University of Florida, Gainesville,
Florida 32611 or the following website: <http://edis.ifas.ufl.edu/SS404>.

250 (2) As to golf courses, Fertilizer must have directions for use in accordance
with the recommendations of “BMPs for the Enhancement of Environmental Quality on Florida
252 Golf Courses,” published by the Florida Department of Environmental Protection, dated January
2007, as updated from time to time. Copies may be downloaded from
254 <http://www.dep.state.fl.us/water/nonpoint/pubs.htm>. This subsection does not exempt Applicators
at these sites from the required basic Green Industry BMP training.

256 (c) This Part 12 does not apply to fruit or vegetable gardens, provided they are not
within ten (10) feet of any waterbody or wetland.

258 (d) This Part 12 does not apply to other properties not subject to or covered under
Section 823.14, Florida Statutes (2016), the Florida Right to Farm Act, as this statute may be
260 amended from time to time, that have pastures used for grazing livestock.

(e) This Part 12 does not apply to any lands used for bona fide scientific research,
262 including, but not limited to, research on the effects of fertilizer use on urban stormwater, water
quality, agronomics or horticulture.

264 **Sec. 270.470. Certification Requirements for Commercial Applicators.**

(a) As required by state law after December 31, 2013, all Commercial Fertilizer
266 Applicators within the unincorporated area of Seminole County shall have and carry in their
possession at all times when applying Fertilizer, evidence of certification by the Florida
268 Department of Agriculture and Consumer Services as a Commercial Fertilizer Applicator per Rule
5E-14.117(18), Florida Administrative Code (2016), as this regulation may be amended from time
270 to time.

(b) As required by Section 482.1562, Florida Statutes (2016), as this statute may be
272 amended from time to time, all Commercial Fertilizer Applicators within the unincorporated areas
of Seminole County shall abide by and successfully complete training and continuing education
274 requirements in the “Florida-Friendly Best Management Practices for Protection of Water
Resources by the Green Industries,” offered by the Florida Department of Environmental
276 Protection through the University of Florida IFAS “Florida-Friendly Landscapes” program, or an
approved equivalent program. As required by Section 205.194, Florida Statutes (2016), as this
278 statute may be amended from time to time, the certification for completing this training must be

attached to the application for its Seminole County Local Business Tax Receipt for any category of occupation which may apply any Fertilizer to Turf or Landscape Plants.

Sec. 270.471. Enforcement, Penalties and Legal Proceedings.

(a) This Part 12 is administered by the County Manager and enforced through the County's authorized Code Enforcement process as set forth in Chapter 53 and this Section 270.473 of this Code. Violations of this Part 12 can present a serious threat to public welfare and are potentially irreparable or irreversible. Therefore, pursuant to Section 53.29(b) of this Code and Sections 162.06(4) and 162.21(3)(b), Florida Statutes (2016), as these provisions may be amended from time to time, any person in violation of this Part 12 shall address such violations immediately upon written notification by the County's Code Enforcement Officers. Any such person shall address notice of violations by providing a written response to the County's Code Enforcement Officers, outlining the temporary and permanent measures that will be taken to correct the violation and a proposed schedule for completion of the corrective measures. Proposals for corrective action are subject to the approval of the County's Code Enforcement Officers based on the criteria set forth in this Part 12.

(b) In addition to the other remedies provided in this Section, any person who violates or fails to comply with the requirements of any provision of this Part 12 is subject to prosecution before the Code Enforcement Board or Special Magistrate of Seminole County, pursuant to Chapter 53 of this Code concerning Code Enforcement, or successor provisions. Each incidence of violation constitutes a separate violation and is subject to a fine of FIFTY AND NO/100 DOLLARS (\$50.00) per violation.

(c) In addition to the other remedies provided in this Section, the County is authorized to make application in a court of appropriate jurisdiction for an injunction restraining any person

302 from violating, or continuing to violate any provisions of this Part 12. Further, the County may
304 avail itself of any other legal or equitable remedy available to it in the enforcement of any provision
of this Part 12 or any provision of any resolution enacted pursuant to this Part 12.

(d) In addition to the other remedies provided in this Section, and in accordance with
306 Chapter 53 of this Code concerning Code Enforcement, any person violating any of the provisions
of this Part 12 is liable for a Class I civil penalty under Chapter 53 of this Code concerning Code
308 Enforcement, or successor provisions. However, the Code Enforcement Officer may simply issue
a warning and waive the fine for the first and second violation within a one (1) year period.

(e) The County may elect to take any or all of the above remedies concurrently, and
310 the pursuit of one does not preclude the pursuit of another.

(f) Any fines or other funds received as a result of enforcement under this Part 12
312 which are not used for specific purposes set forth in this Part 12, as it may be amended from time
314 to time, must be deposited in the General Fund of the County in the penalty, fine and forfeiture
account.

316 **Sec. 270.472. Liberal Construction.** The provisions of this Part 12 are to be liberally
construed to effectuate its purposes.

318 **Section 2.** Chapter 53, “Code Enforcement,” of the Seminole County Code is hereby
amended to read as follows:

320 * * *

Section 53.32. Schedule of Violations and Penalties.

322 (a) Civil infractions of County codes and ordinances for which citations may be issued
include, but are not limited to:

324 * * *

CLASS I

326 * * *

(13) S.C.C. Chapter 270, Part 12 Improper Use of Fertilizers.

328 * * *

Section 3. Codification. It is the intention of the Board of County Commissioners that the provisions of this Ordinance will become and be made a part of the Seminole County Code, and that the word “ordinance” may be changed to “section,” “article,” or other appropriate word or phrase and the sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; providing, however, that the Sections 3, 4 and 5 of this Ordinance will not be codified.

Section 4. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid or is subject to a state moratorium, it is the intent of the Board of County Commissioners that such invalidity or state moratorium will not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application and, to this end, the provisions of this Ordinance are declared severable.

Section 5. Effective date. This Ordinance takes effect upon filing a copy of this Ordinance with the Department of State by the Clerk of the Board of County Commissioners; provided, however, no citations, notices to appear, notices of violation or other enforcement procedures may be instituted until _____, 2016.

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BE IT ORDAINED by the Board of County Commissioners of Seminole County, this

344 _____ day of _____, 2016.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida

JOHN HORAN, Chairman

DGS/sjs
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