



AGENDA ITEM # 6.D.

Requirements:

Ordinance Required

Costs: \$

Appropriation Code:

12/6/2016

MEMORANDUM

TO: Mayor Kim D. Leinbach and Members of City Council

THROUGH: Charles W. Stephenson, City Manager

FROM: Lorraine Lyn, Senior Planner; Amir Anisi, Community Development Director

RE: Land Development Code Amendment RZP#16-06 – Stormwater Quality Management

Recommendation:

Community Development recommends that City Council adopt an ordinance to amend the Land Development Code (LDC) to revise the Stormwater section as it relates to fertilizer application.

Discussion:

The Environmental Protection Commission (EPC) adopted a new Fertilizer Use and Landscape Management Rule which became effective on July 20, 2010. The City of Temple Terrace amended its LDC on November 19, 2013 to limit the use of lawn fertilizer and provided the intent to establish a prohibited application period in Sec. 12-628.2, but did not specify a time frame. The City initiated proposed changes being considered are minor refinements to the major revisions adopted in 2013.

Ideally, Hillsborough, Pinellas and Manatee counties would have similar regulations. Pinellas and Manatee counties and the City of Tampa adopted more restrictive regulations than Hillsborough County. The existing and proposed regulations for the City of Temple Terrace are more restrictive than Hillsborough County's but less restrictive than the City of Tampa's which also regulates the sale of granular fertilizers containing nitrogen that is less than 50% slow release between October 1st and May 31st.

Proposed Changes

Staff received a request for a Land Development Code amendment on August 3, 2106 and determined that the following modifications to the code are warranted to Division 4, Stormwater Quality, similar to the City of Tampa's regulations.

1. Establish a fertilizer restricted season from June 1 through September 30 each year (rainy season), during which time, fertilizer containing nitrogen and/or phosphorous could not be applied to turf or landscape plants;
2. Instead of recommending that granular fertilizers containing nitrogen contain the maximum available percent of slow release nitrogen possible per guaranteed analysis label, it would now require that it contain no less than 50% slow release nitrogen per guaranteed analysis label; and
3. Any person who obtains a soil analysis test showing a phosphorus deficiency and who wishes to apply phosphorus must now mail a copy of the test results to the City Public Works Stormwater Division, instead of maintaining a copy of the test results for 2 years and allow the City Manager to review the results upon request.
4. Adds to the list of exempted activities yard waste, compost, mulches or other similar materials that are primarily organic in nature and are applied to improve the physical condition of soil.

Strategic Connections:

The proposed LDC text amendments are consistent with Goal 9 which promotes sustainable, safe and attractive development while supporting and promoting economic development.

PRESENTER:

Lorraine Lyn, Senior Planner

ATTACHMENTS:

Description

Attachment 1 - Planning Commission Recommendation

Attachment 2 - Ordinance

Attachment 3 - Exhibit A

Type

Backup Material

Ordinance

Exhibit



Hillsborough County City-County Planning Commission

Executive Summary

Meeting Date: October 10, 2016
Agenda Item: Temple Terrace: Land Development Code Amendments - Section 12, Fertilizer and Landscape Management
Presenter: Tony LaColla, AICP ext. 350
Action Necessary: Yes

Summary:

The Planning Commission is required to review Land Development Regulations for consistency with the adopted Temple Terrace Comprehensive Plan in accordance with Chapter 163.3194(2) Florida Statutes, and Chapter 97-351 Laws of Florida, providing findings to the Temple Terrace City Council.

The proposed publically initiated text amendments to the City of Temple Terraces' Land Development Code seeks to modify existing language regulating the application of fertilizers to turf and/or landscape plants. Overall, the proposed text amendment would add additional language to the Land Development Code as follows:

1. Sec.12-617 - Definitions, the definition of "Restricted Season" was added;
2. Sec.12-628 - Fertilizer and Landscape Management, in which four changes are proposed:
 - Prohibit the application of fertilizers containing nitrogen and/or phosphorus to turf and/or landscape plants between the months of June and September (defined as the Restricted Season).
 - Granular fertilizers containing nitrogen applied to turf and/or landscape plants within the City shall contain no less than 50% slow release nitrogen per guaranteed analysis label.
 - Requiring any person who obtains a soil analysis test showing a phosphorus deficiency and who wishes to apply phosphorus to turf and/or landscape plants to mail a copy of the test results to the City's Public Works Department instead of maintaining a copy of the test results for two years and allowing the City Manager access to review the results upon request.
 - Adding yard waste compost, mulches, or other similar materials that are primarily organic in nature and are applied to improve the physical condition of soil to the list of exempted activities.



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Planning Commission staff found that the proposed request would further a number of Comprehensive Plan Goals, Objectives, and Policies.

Recommendation:

Staff recommends that the Planning Commission find the proposed text amendment to the City of Temple Terrace Land Development Code **CONSISTENT** with the *Imagine 2040: Temple Terrace Comprehensive Plan* and forward this recommendation to Temple Terrace City Council.

Attachments:

Resolution, Staff Report, Proposed Text





Hillsborough County City-County Planning Commission

Staff Report: Proposed Land Development Code (LDC) Text Amendment

Section 12 – Stormwater Quality: Fertilizer and Landscape Management

Staff Findings & Analysis:

The following publicly initiated text amendment to the Land Development Code seeks to modify existing language regarding “*Fertilizer and Landscape Management*.” Overall, the proposed text amendment would prohibit the application of certain fertilizers between June and September. The following changes are proposed:

1. Sec.12-617 - Definitions, the definition of “Restricted Season” was added;
2. Sec.12-628 - Fertilizer and Landscape Management, in which four changes are proposed:
 - Prohibit the application of fertilizers containing nitrogen and/or phosphorus to turf and/or landscape plants between the months of June and September (defined as the Restricted Season).
 - Granular fertilizers containing nitrogen applied to turf and/or landscape plants within the City shall contain no less than 50% slow release nitrogen per guaranteed analysis label.
 - Requiring any person who obtains a soil analysis test showing a phosphorus deficiency and who wishes to apply phosphorus to turf and/or landscape plants to mail a copy of the test results to the City’s Public Works Department instead of maintaining a copy of the test results for two years and allowing the City Manager access to review the results upon request.
 - Adding yard waste compost, mulches, or other similar materials that are primarily organic in nature and are applied to improve the physical condition of soil to the list of exempted activities.

Planning Commission staff found that the proposed request to modify existing language concerning the allowance of “*Fertilizer and Landscape Management*,” would further a number of Comprehensive Plan Goals, Objectives, and Policies regarding the protection of the Hillsborough River and other environmental resources.

Planning Commission staff recommendation: To find the text amendment **CONSISTENT** with the *Imagine 2040: Temple Terrace Comprehensive Plan*.



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Supporting Environmental - Goals, Objectives, and Policies

ENV GOAL 1: *Preserve, conserve, restore, and appropriately manage the natural resources and maintain or enhance environmental quality for present and future generations.*

Water Quality

ENV Policy 1.2.4: *The City shall support public education programs, particularly those aimed at home owners and small businesses, which address the surface water quality impacts of improperly managed lawn litter and fertilizer/herbicide/pesticide applications.*

Hillsborough River

ENV GOAL 2: *To ensure proper management and conservation of the natural environment and make the Hillsborough River cleaner, safer, and more attractive.*

ENV Policy 2.2.3: *Reduce the amount of fertilizers and pesticides applied near the Middle Hillsborough River by promoting application methods that minimizes water contamination in accordance with product label recommendations or the Florida Department of Environmental Protection, Department of Health and Department of Agriculture and Consumer Services recommendations.*

Policy 2.2.4: *The City shall initiate an informational program to advise residents of the impacts to the River that may result from careless or over-use of fertilizers and pesticides near the River or drainage ways that direct storm water runoff to the River.*



**Hillsborough County
City-County
Planning Commission**

Resolution

Item: Temple Terrace Land Development Code Amendments – Chapter 12, Section 12, Fertilizer and Landscape Management

	AYE	NAY	ABSENT	DATE: October 10, 2016
Mitch Thrower, Chair	X			<i>Mitch Thrower</i>
Bowen A Arnold, Vice-Chair	X			
Gary Pike, Member-at-Large	X			
Stephanie A Agliano			X	Mitch Thrower Chair
Stephen L Benson, AICP			X	
Matthew D Buzza	X			<i>Melissa E Zornitta</i>
Derek L Doughty, PE	X			
Theodore Trent Green, RA	X			
Nigel M Joseph	X			
Jacqueline S Wilds	X			Melissa E. Zornitta, AICP Executive Director
Melissa E Zornitta, AICP Executive Director				
On motion of <u>Commissioner Green</u> Seconded by <u>Commissioner Joseph</u>				
The following resolution was adopted:				



WHEREAS, the Hillsborough County City-County Planning Commission, has developed a Comprehensive Plan for the City of Temple Terrace entitled *Imagine 2040: Temple Terrace Comprehensive Plan*, pursuant to the provisions of Chapter 163.3161, Florida Statutes, which was adopted by Temple Terrace City Council on January 19, 2016, as amended; and

WHEREAS, the Hillsborough County City-County Planning Commission has received a publicly-initiated request to amend the Temple Terrace Land Development Code related to fertilizer and landscape management within the city limits; and

WHEREAS, the Hillsborough County City-County Planning Commission has reviewed the amendment to the Land Development Code, for relationship and consistency with adopted goals, objectives and policies of the *Imagine 2040: Temple Terrace Comprehensive Plan* as listed within the related Planning Commission staff report and described as follows:

Temple Terrace: Land Development Code Amendments
Section 12, Fertilizer and Landscape Management
October 10, 2016 Public Hearing

Environmental - Goals, Objectives, and Policies

ENV GOAL 1: *Preserve, conserve, restore, and appropriately manage the natural resources and maintain or enhance environmental quality for present and future generations.*

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ENV Policy 1.2.4: *The City shall support public education programs, particularly those aimed at home owners and small businesses, which address the surface water quality impacts of improperly managed lawn litter and fertilizer/herbicide/pesticide applications.*

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Policy 2.2.4: *The City shall initiate an informational program to advise residents of the impacts to the River that may result from careless or over-use of fertilizers and pesticides near the River or drainage ways that direct storm water runoff to the River.*

WHEREAS, the Planning Commission staff has determined that the proposed changes to the Temple Terrace Land Development Code are consistent with and does further the goals, objectives and policies of the *Imagine 2040: Temple Terrace Comprehensive Plan*.

NOW, THEREFORE, BE IT RESOLVED, that the Hillsborough County City-County Planning Commission finds the proposed Land Development Code amendment for Section 12, Fertilizer and Landscape Management **CONSISTENT** with the *Imagine 2040: Temple Terrace Comprehensive Plan* and recommends that it be forwarded to Temple Terrace City Council for adoption.

DIVISION 4. - STORMWATER QUALITY

Sec. 12-616. - Title.

This division shall be known and may be cited as the "City of Temple Terrace Stormwater Quality Management Division."

(Code 2001, § 25.716.1)

Sec. 12-617. - Definitions.

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

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.

Best management practices (BMPs) means schedule of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce pollutants from entering the Municipal Separate Storm Sewer System (MS4) or being discharged from the MS4. BMPs include, but are not limited to, treatment methods and practices to control the discharge of pollutants. With respect to the application of fertilizer, Best Management Practices or BMPs shall also mean turf and landscape practices which minimize the negative environmental impacts of installation and maintenance of landscapes.

Clean Water Act (CWA) means amendments, passed in 1972 by Congress, to the Federal Water Pollution Control Act and commonly referred to as the Clean Water Act (CWA).

Code of Federal Regulations (CFR) means the codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government.

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

Construction activities mean and includes such activities as clearing, grading, and excavation activities.

Discharge means and includes, but is not limited to, any release, spilling, leaking; seeping, pouring, emitting, emptying or dumping of any substance or material.

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 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. For purposes of this section, when referring to "fertilizers" the meaning can include both those that contain nitrogen ("N") or

phosphorous ("P"), and fertilizers that do not contain those substances. Nonetheless, this section may also use the following abbreviations to reflect a specific type of content-based fertilizer: "N-fertilizer", "P-fertilizer", or fertilizer that contains either N and/or P - "N/P-fertilizer". For purposes of this section only, reclaimed water does not fall under the definition of fertilizer.

Granular means composed of small grains or particles. Granular does not include products mixed with water prior to application.

Guaranteed analysis means the percentage of plant nutrients or measures of neutralizing capability claimed to be present in the fertilizer.

Illicit connections means point source discharges to the city's MS4 or to waters of the U.S., which are not composed entirely of stormwater and are not authorized by a National Pollutant Discharge Elimination System (NPDES) permit. Failure of an industrial facility or construction site to notify the city manager or designee of a connection to the city's MS4 constitutes an illicit connection.

Illicit discharge means any discharge to a MS4 or to waters of the U.S. that is not composed entirely of stormwater, with the exception of discharges which are exempt pursuant to [section 12-618](#). Any discharge in violation of an NPDES permit shall constitute an illicit discharge.

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 water. It includes surfaces such as compacted sand, limerock, or clay, as well as conventionally surfaced streets, sidewalks, parking lots, and other similar surfaces.

Industrial activities means activities which are conducted on properties designated for industrial land use in accordance with the city comprehensive plan and/or at facilities identified by the U.S. EPA as requiring an NPDES stormwater permit under the definition of "Storm Water Discharge Associated with Industrial Activity" in title 40, section 122.26 of the Code of Federal Regulations or any amendment thereto.

Inspection means and includes, but is not limited to, any on-site physical examination of all facilities and grounds which may discharge to a MS4, a review of all records on operation and maintenance of facilities and the results of any monitoring performed for compliance with state, federal and local regulations or permit conditions.

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.

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

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

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

Municipal separate storm sewer system (MS4) means a conveyance or system of conveyances (including, but not limited to, roads with drainage systems, streets, catchbasins, curbs, gutters, ditches, manmade channels or storm drains) owned or operated by a local government that discharges to waters of the United States or connects to other MS4s, that is designed solely for collecting or conveying stormwater, and that is not part of a publicly owned treatment works (POTW) as defined by 40 CFR 122.2 or any amendment thereto.

National Pollutant Discharge Elimination System (NPDES) means the federal program for issuing, modifying, revoking, reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318 and 405 of CWA. The term also includes an "approved program."

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

Person means any natural person, individual, public or private corporation, firm, association, joint venture, partnership, municipality, governmental agency, political subdivision, public officer, or any other entity whatsoever, or any combination of such, jointly or severally.

Point source means any discernible and confined conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, container, rolling stocks, concentrated animal feeding operation, vessel, or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

Pollutant means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC 2011 et seq.)), heat, wrecked or discharged equipment, rock, sand, and industrial, municipal, and agricultural waste discharged into water.

Restricted Season means June 1st through September 30th.

Site Supervisor means the direct supervisor of landscape maintenance personnel.

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 turf used for athletic fields, golf courses, golf course practice areas, and other private or public athletic fields.

Stormwater means surface runoff and drainage of water resulting from rainfall.

Surface water means those waters as identified by section 62-340.600, Florida Administrative Code (F.A.C.), which include waters upon the surface of the earth, whether contained in bounds created naturally or artificially or diffused. They shall include, but not be limited to, bays, rivers,

streams, lakes, ponds, swamps, wetlands, canals, springs, impoundments and all other waters or bodies of water, including fresh, brackish or saline, tidal or intermittent, which are located, either entirely or partially, within the geographic boundaries of the City.

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

Waters of the United States (U.S.) means as defined by the U.S. Environmental Protection Agency (EPA) in title 40, section 122 of the Code of Federal Regulations or any amendment thereto.

(Code 2001, § 25.716.2; Ord. No. 1352, § 2, 11-19-2013)

Sec. 12-618. - Exemptions.

The following activities shall be exempt from the requirements of Sections [12-619](#) through [12-627](#) of this division:

(1) Discharges from:

- a. Water line flushing;
- b. Landscape irrigation;
- c. Uncontaminated groundwater infiltration (as defined at 40 CFR 35.2005(20) to separate storm sewers;
- d. Uncontaminated pumped groundwater;
- e. Discharges from potable water sources;
- f. Air conditioning condensate;
- g. Swimming pools;
- h. Irrigation water;
- i. Springs;
- j. Lawn watering;
- k. Individual residential car washing;
- l. Flows from riparian habitats and wetlands;
- m. Street wash waters; and
- n. Discharges or flows from emergency fire fighting activities, and emergency response activities employing best management practices.

(2) Discharges which meet the water quality standards of F.A.C. 62-302.

(3) Discharges from facilities in compliance with the conditions of all required NPDES permits issued under the authority of the U.S. Environmental Protection Agency.

(Code 2001, § 25.716.11; Ord. No. 1352, § 3, 11-19-2013)

Sec. 12-619. - Enforcement, penalties and legal proceedings.

(a) This division shall be administered by the city manager or designee. All persons in violation of this division shall address such violations immediately upon written notification by the city. Violations shall be addressed by providing a written response to the city manager or designee,

requesting outlining the temporary and permanent measures that will be taken to correct the violation and a proposed schedule for completion of each of the corrective measures. Proposals for corrective action are subject to the approval of the city manager or designee.

- (b) The city manager or designee is authorized to issue cease and desist orders in the form of written official notice sent by registered mail to the person(s) responsible for the violation. Specific activities and operations may be ordered to be ceased based upon the following conditions:
 - (1) In a situation that may have a serious effect on the health, safety or welfare of the public or the environment, including the operation of and quality of stormwater in the city's MS4.
 - (2) When irreversible or irreparable harm may result, in the reasonable opinion of the city manager or designee, and immediate cessation of the activity is necessary to protect the public or the environment, including the operation of and quality of stormwater in the city's MS4.
- (c) Any person who violates this division and/or fails to comply with the requirements of subsection (a) or (b) of this section shall be subject to legal action before the municipal code enforcement board or the City's Supplemental Enforcement Procedures and shall be subject to administrative fines and liens, or other penalties, as set forth in F.S. Ch. 162. Each day of noncompliance shall constitute a separate violation.
- (d) In addition to any fines which may be imposed by this division, persons responsible for a discharge which adversely impacts a receiving water shall be liable for all sampling and analytical costs incurred in monitoring the discharge, any state or federal fines imposed as a result of the discharge and the cost of removing or properly treating the discharge for complete restoration of the quality of all receiving waters.
- (e) If the person(s) responsible for a violation fails to take action(s) as required in this section, the city has the right to take remedial action. All costs incurred by the city in taking such action(s) shall be reimbursed by the person(s) responsible for the violation.
- (f) In addition to the remedies provided herein, the city is authorized to make application in a court of appropriate jurisdiction for an injunction restraining any person from violating, or continuing to violate, any provisions of this division. In addition, the city may also seek entry of a court order requiring restoration and mitigation for any impacted land or waters or request any other appropriate, applicable legal remedy, including reimbursement of court costs.
- (g) The city may elect any or all of the above remedies concurrently, and the pursuance of one shall not preclude the pursuance of another.

(Code 2001, § 25.716.12; Ord. No. 1083, 1-21-2003; Ord. No. 1352, § 4, 11-19-2013)

Sec. 12-620. - Control of stormwater discharges.

- (a) Discharges to the city's MS4 shall be controlled to the extent that such discharges will not impair the operation of the MS4 or contribute to the failure of the MS4 to meet any local, state or federal requirements. Discharges to waters of the U.S. shall be controlled to the extent that the discharge will not adversely impact the quality or beneficial uses of the receiving water or result in violation of any federal, state or local laws.
- (b) Any person responsible for discharges determined by the city to be contributing to the degradation of the city's MS4 or the waters of the U.S., either directly or through a MS4, shall

provide corrective measures in accordance with a schedule approved by the city and may be subject to paying fines and damages.

(Code 2001, § 25.716.3)

Sec. 12-621. - Stormwater discharges from industrial activities and construction activities.

- (a) Stormwater from construction sites shall be controlled in such a way as to retain sediment on-site and prevent violations of state water quality standards or NPDES permits. All erosion, pollution, and sediment controls required pursuant to the pollution prevention plan of a NPDES stormwater permit for construction or required pursuant to a state stormwater permit issued by either the Florida Department of Environmental Protection or the Southwest Florida Water Management District shall be properly implemented, maintained and operated.
- (b) Stormwater from areas of industrial activity shall be treated or managed on-site, using best management practices, in accordance with NPDES permits, prior to discharging to the city's MS4 or to waters of the U.S. All stormwater discharges from the site shall be of a quality which will not adversely impact the water quality or beneficial uses of the receiving water.
- (c) The owners or operators of industrial facilities or construction sites which will discharge stormwater to the city's MS4 or to waters of the U.S. must provide written notification of connection to the city prior to discharging.

(Code 2001, § 25.716.4)

Sec. 12-622. - Control of pollutant contributions from interconnected MS4s.

The discharge of stormwater between interconnected state, county or other MS4s shall not impair the quality of the discharge of the receiving MS4. Owners of sections of an interconnected MS4 shall be responsible for the quality of discharge from their portion of the system and shall coordinate with the owners of the downstream segments prior to the connections into their systems.

(Code 2001, § 25.716.5)

Sec. 12-623. - Prohibition of illicit discharges and illicit connections.

Any discharge, other than stormwater, to the city's MS4 or to waters of the U.S. which is not exempt under [section 12-618](#), and any connection which is not composed entirely of stormwater or specifically permitted through an NPDES permit, is considered an illicit discharge or an illicit connection and is prohibited.

(Code 2001, § 25.716.6)

Sec. 12-624. - Reporting illicit discharges or illicit connections.

Upon discovery of an illicit discharge or an illicit connection, persons responsible for the discharge or the connection shall report their findings by telephone immediately to the city and follow within 48 hours with written notification.

(Code 2001, § 25.716.7)

Sec. 12-625. - Control of illicit discharges or illicit connections.

Persons responsible for illicit discharges or illicit connections shall immediately, upon notification or discovery, initiate procedures to cease discharging or provide suitable containment facilities. Such procedures shall include a requirement to obtain approval from the city manager or designee of a schedule for implementing proposed corrective measures.

(Code 2001, § 25.716.8)

Sec. 12-626. - Inspection and monitoring for compliance.

City personnel shall be granted access for inspection of facilities discharging or suspected of discharging to the city's MS4 or waters of the U.S. in order to effectuate the purposes of this Section and to investigate violations or potential violations of any of the terms herein. All structures and processes which allow discharges to the city's MS4, as well as records concerning them, shall be made accessible to city personnel for monitoring of the quality of the discharges.

(Code 2001, § 25.716.9)

Sec. 12-627. - Maintenance of control structures.

Structural controls and other BMPs used to reduce pollutants in stormwater discharges shall be operated and maintained so as to function in accordance with the permitted design or performance criteria in compliance with NPDES or other permit conditions. Operation and maintenance shall be done so as to assure treatment of stormwater or reduction in pollutants in stormwater discharges consistent with appropriate federal, state, water management district, or local rules or permit requirements.

(Code 2001, § 25.716.10)

Sec. 12-628. - Fertilizer and landscape management.

- (1) *Purpose.* To reduce the impairment to the surface waters of Temple Terrace caused by excessive nutrients, and to decrease levels of nitrogen in the surface and/or ground water within the aquifers or springs within Temple Terrace in compliance with the City's NPDES permit.
- (2) *Intent.* The intent of this section is to regulate the proper use of fertilizers by any applicator; require proper training of commercial and institutional fertilizer applicators and landscape maintenance companies by establishing training and licensing requirements; establish a prohibited application period; specify allowable fertilizer application rates and methods, fertilizer-free zones, low maintenance zones, exemptions, and training and licensing requirements. This Section requires the use of best management practices (BMPs) 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 Temple Terrace's stormwater and drainage conveyances, rivers, creeks, canals, springs, ponds, estuaries and other water bodies, whether they are natural or artificial. Collectively, these water bodies are an asset critical to the environmental, recreational, cultural, and economic well-being of City of Temple Terrace residents and the health of the public. Overgrowth of algae and vegetation hinder the effectiveness of flood attenuation provided by natural and artificial stormwater conveyances. Regulation of nutrients, including both phosphorus and nitrogen contained in fertilizer, will help improve and maintain water and habitat quality.

- (3) *Applicability.* This section shall be applicable to and shall regulate any and all applicators of fertilizer, areas of application of fertilizer, and landscape maintenance activities within Temple Terrace, unless such applicator or activity is specifically exempted by the terms of this Section from the regulatory provisions of this Section. Exemptions are located in sub-section (9).
- (4) *Weather and seasonal restrictions.* No applicator shall apply fertilizers containing nitrogen and/or phosphorus to turf and/or landscape plants during one or more of the following events:
- i) if it is raining at the application site, or
 - ii) within the time period during which a flood watch or warning, or a tropical storm watch or warning, or a hurricane watch or warning is in effect for any portion of Temple Terrace, issued by the National Weather Service, or
 - iii) within 36 hours prior to a rain event greater than or equal to 2 inches in a 24 hour period is likely; or
 - iv) between June 1 through September 30 unless subject to an exemption indicated in this Article.
- (5) *Fertilizer content and application rate.*
- (a) N/P-fertilizers shall be applied to turf and/or landscape plants at the recommended rate per the "Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries", December 2008, as revised. However, no more than four (4) pounds of nitrogen per 1000 ft² shall be applied in any calendar year.
 - (b) No fertilizer containing phosphorus shall be applied to turf and/or landscape plants in Temple Terrace, except where phosphorus deficiency has been demonstrated in the soil underlying the turf and/or landscape plants by a soil analysis test performed by a State of Florida-certified laboratory. Any person who obtains such a soil analysis test showing a phosphorus deficiency and who wishes to apply phosphorus to turf and/or landscape plants shall ~~maintain a copy of the test results for two years and allow the City Manager or his designee to review the results upon request.~~ mail a copy of the test results to the Public Works Department Stormwater Division, 11210 N 53rd St., Temple Terrace, FL 33617 prior to the application of phosphorus.
 - (c) Nitrogen fertilizer shall not be applied before planting new turf or on newly established turf for the first 30 days.
 - (d) Liquid fertilizers containing nitrogen applied to turf and/or landscape plants within Temple Terrace shall not be applied at a rate that exceeds 0.5 lbs/1000 ft² per application.
 - (e) Granular fertilizers containing nitrogen applied to turf and/or landscape plants within the City shall contain no less than 50% slow release nitrogen per guaranteed analysis label.
 - (fe) It is a violation of this Section to fail to comply with the provisions of this Section and any requirements set forth in Rule 5E-1.003(2), F.A.C., Labeling Requirements For Urban Turf Fertilizers.
- (6) *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. Fertilizer shall not 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 spreader. Deflector shields must be positioned such that fertilizer granules are deflected away from all impervious surfaces and surface waters.

(7) *Fertilizer-free zones.* Fertilizer shall not be applied within ten (10) feet from the landward extent of any surface water as identified in section 62-340.600(2), F.A.C.

(8) *Management of grass clippings and vegetative material.* It shall be a violation of this section for any person to wash, sweep, blow or otherwise cause grass clippings, leaves, or other vegetative material to be deposited into stormwater drains, ditches, drainage conveyances, sewer systems, surface waters, or roadways.

(9) *Exemptions.*

(a) The following activities are exempt from this section:

1. *Golf courses.* For all golf courses and associated practice areas, the provisions of the FDEP document, "BMPs for the Enhancement of Environmental Quality on Florida Golf Courses, January 2007," as updated, are required and shall be followed.

2. Bona fide farm operations as defined in the Florida Right to Farm Act, F.S. § 823.14.

3. Other properties not subject to or covered under the Florida Right to Farm Act that have pastures for grazing livestock;

4. Any lands used for bona fide scientific research, including, but not limited to, research on the effects of fertilizer use on urban stormwater, water quality, agronomics or horticulture.

5. Yard waste compost, mulches, or other similar materials that are primarily organic in nature and are applied to improve the physical condition of soil.

(b) Sub-section (5) (Fertilizer content and application rate) shall not apply to fertilizer applications on specialized turf, including but not limited to, privately and publicly operated athletic fields. Specialized turf managers must follow the provisions and directions in section 5E-1.003(2)(d), F.A.C., all other provision of this Section, and all applicable provisions of the Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries, as updated. Notwithstanding the definition of specialized turf, golf course and golf practice areas are governed by the exemption in subsection (a)(1) above.

(10) *Certification and training.*

(a) All commercial applicators and their supervisors, as well as government and institutional applicators, site supervisors and managers of professional landscape supervisors, and any employee of a lawn and landscape maintenance company performing fertilizer application shall (i) abide by and successfully complete a University of Florida Institute of Food and Agricultural Sciences (IFAS) approved BMP training program and have and carry in their possession at all times a copy of the certificate of completion of such program when applying fertilizer within the City,

(ii) comply with Rule Chapter 1-15 of the Environmental Protection Commission of Hillsborough County (EPCHC), and

(iii) after December 31, 2013, have and carry in their possession at all times when applying fertilizer within the City evidence of certification by the Florida Department of Agriculture and Consumer Services as a Commercial Fertilizer Applicator per Rule 5E-14.117(18), F.A.C. The certificates required herein shall be provided to the City of Temple Terrace representative such as a Code Enforcement Officer or Public Works Department Stormwater Division staff upon request.

(b) A vehicle decal issued by the EPCHC Executive Director or other authorized organization indicating that the company is in compliance with the training and certification requirements of Chapter 1-15 of the EPCHC shall be affixed and maintained on the exterior of all vehicles used by any company in connection with landscape maintenance activities and/or the application of fertilizer within the City.

(c) All businesses applying fertilizer to turf and/or landscape plants (including but not limited to residential lawns, golf courses, commercial properties, and multi-family and condominium properties) must ensure that at least one employee has a "Florida Friendly Best Management Practices for Protection of Water Resources by the Green Industries" training certificate or a certificate from a substantially equivalent training program prior to the business owner obtaining a Local Business Tax Certificate. Owners of any category of occupation which may apply any fertilizer to turf and/or landscape plants shall provide proof of completion of such a program to the City.

(11) *Recommendations and additional information.*

(a) A voluntary six (6) foot low-maintenance, "no-mow" zone is strongly recommended from those areas described as fertilizer-free zones in sub-section (7) to reduce the potential for N/P-fertilizer residue entering adjacent water bodies and wetlands. A swale/berm system is recommended for installation at the landward edge of this low maintenance zone to capture and filter runoff. 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 County and municipal water departments.

(c) The City strongly recommends the establishment of training programs using English and Spanish-speaking certified BMP trainers.

(d) The City recommends that private homeowners become familiar with and utilize the recommendations of the current IFAS Florida Yards and Neighborhoods Handbook when applying fertilizer.

~~(e) It is recommended that granular fertilizers containing nitrogen applied to turf and/or landscape plants contain the maximum available percent of slow release nitrogen possible per guaranteed analysis label.~~

~~(ef)~~ Collection and proper disposal of pet waste is encouraged, consistent with City Code [Section 6-37](#).

~~(fg)~~ This section is not applicable to farm manure products and dolomite.

~~(gh)~~ The City will conduct an educational campaign regarding this section.

~~(ht)~~ Funds generated by penalties imposed for violation of the provisions of this section shall be used by the City for the administration and enforcement of this section, and to further water conservation and nonpoint pollution prevention activities.

(Ord. No. 1352, § 5, 11-19-2013)

Secs. 12-629—12-657. - Reserved.

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF TEMPLE TERRACE, FLORIDA, AMENDING CHAPTER 12, ARTICLE IX, DIVISION 6 OF THE CITY OF TEMPLE TERRACE CODE OF ORDINANCES, ENTITLED "STORMWATER MANAGEMENT" TO MODIFY FERTILIZER REGULATIONS AND ESTABLISH A RESTRICTED SEASON BETWEEN JUNE 1ST AND SEPTEMBER 30TH OF EACH YEAR BY AMENDING SECTION 12-617, DEFINITIONS; AMENDING AND RENUMBERING SECTION 12-628, FERTILIZER AND LANDSCAPE MANAGEMENT; PROVIDING A SEVERABILITY CLAUSE, EFFECTIVE DATE, AUTHORITY TO CODIFY AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.

WHEREAS, as part of the City's National Pollution Discharge Elimination System stormwater permit, the City is required to adopt an ordinance inclusive of all the requirements set forth in the Department of Environmental Protection's Florida-Friendly Fertilizer use on Urban Landscapes Model Ordinance pursuant to Sections 403.9336 through 403.9338, Florida Statutes; and

WHEREAS, on November 19, 2013, the City Council approved Ordinance No.1392 amending Chapter 12, Article IX, Division 6 of the City of Temple Terrace Code of Ordinances, entitled "stormwater management" by amending Section 12-617, Definitions; amending Section 12-618, Exemptions; amending Section 12-619, Enforcement, Penalties and Legal Proceedings; adding Section 12-628, fertilizer and landscape management; and renumbering reserved sections from 12-628-12-657 to 12-629-12-657; and

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

WHEREAS, surface water and base flow runoff containing excess nutrients from residential neighborhoods, commercial centers, industrial areas, and other lands in the City of Temple Terrace enter into natural and artificial stormwater and drainage conveyances and natural water bodies in Hillsborough County; and

WHEREAS, nutrients commonly found in various forms as a fertilizer for turf and landscape application contribute to pollution in natural water bodies; 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 downstream detrimental effects of nutrient-laden runoff are particularly evident in coastal watersheds due to the proximity of stormwater and drainage conveyances to coastal and estuarine natural resources; and

WHEREAS, the quality of streams, lakes, and rivers, as well as Tampa Bay is critical to environmental, economic, and recreational prosperity and to the health, safety, and welfare of the citizens of Temple Terrace; and

WHEREAS, the City of Temple Terrace Comprehensive Plan provides for the ability to implement strategies, regulations, and requirements necessary to achieve and maintain pollution load reduction goals of the Tampa Bay Comprehensive Conservation Management Plan; and

WHEREAS, the proposed Land Development Code amendment was presented to the City of Temple Terrace River Watch Task Force on October 17, 2016 and to the Hillsborough River Board T.A.C. on October 18, 2016, and both groups support improving the quality of stormwater discharges for the health, safety, and general welfare of the citizens of Temple Terrace; and

WHEREAS, on October 10, 2016, the Hillsborough County City-County Planning Commission reviewed the proposed amendments to the Land Development Code and found that the proposed amendments are consistent with the Imagine 2040: Temple Terrace Comprehensive Plan; and

WHEREAS, after due consideration, the Mayor and City Council of the City of Temple Terrace, Florida have determined that Chapter 12, Article IX, Division 6, should be amended to modify fertilizer regulations and establish a restricted season between June 1st and September 30th of each year to protect the quality of waters receiving stormwater discharges for the health, safety, and general welfare of the citizens of Temple Terrace.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF TEMPLE TERRACE, FLORIDA:

Section 1. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

Section 2. The City Council hereby approves and adopts modifications to Chapter 12 of the City of Temple Terrace Code of Ordinances, Land Development Code, Article IX, Division 6 Titled "Stormwater Management" by amending Section 12-617 titled "Definitions," and amending Section 12-628 Titled "Fertilizer and Landscape Management," which Sections shall read as set forth in Exhibit "A" attached hereto and made a part hereof (new verbiage is shown underlined and deleted verbiage stricken through) which shall become and be made a part of the Temple Terrace Land Development Code.

Section 3. If any part of this ordinance is declared invalid by a court of competent jurisdiction, such part or parts shall be severable, and the remaining part or parts hereof shall continue to be in full force and effect.

Section 4. All ordinances or parts of ordinances not specifically in conflict herewith are hereby continued in full force and effect, but all ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 5. This ordinance shall take effect immediately upon its becoming a law.

PASSED AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPLE TERRACE, FLORIDA, THIS 6th DAY OF DECEMBER, 2016.

APPROVED BY THE MAYOR THIS 6th DAY OF DECEMBER, 2016.

(CORPORATE SEAL)

KIM D. LEINBACH, MAYOR

ATTEST:

**CHERYL A. MOONEY
CITY CLERK**

APPROVED AS TO FORM:

MARK CONNOLLY

EXHIBIT A

DIVISION 4. - STORMWATER QUALITY

Sec. 12-616. - Title.

This division shall be known and may be cited as the "City of Temple Terrace Stormwater Quality Management Division."
(Code 2001, § 25.716.1)

Sec. 12-617. - Definitions.

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

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.

Best management practices (BMPs) means schedule of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce pollutants from entering the Municipal Separate Storm Sewer System (MS4) or being discharged from the MS4. BMPs include, but are not limited to, treatment methods and practices to control the discharge of pollutants. With respect to the application of fertilizer, Best Management Practices or BMPs shall also mean turf and landscape practices which minimize the negative environmental impacts of installation and maintenance of landscapes.

Clean Water Act (CWA) means amendments, passed in 1972 by Congress, to the Federal Water Pollution Control Act and commonly referred to as the Clean Water Act (CWA).

Code of Federal Regulations (CFR) means the codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government.

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

Construction activities mean and includes such activities as clearing, grading, and excavation activities.

Discharge means and includes, but is not limited to, any release, spilling, leaking, seeping, pouring, emitting, emptying or dumping of any substance or material.

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 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. For purposes of this section, when referring to "fertilizers" the meaning can include both those that contain nitrogen ("N") or phosphorous ("P"), and fertilizers that do not contain those substances. Nonetheless, this section may also use the following abbreviations to reflect a specific type of content-based fertilizer: "N-fertilizer", "P-fertilizer", or fertilizer that contains either N and/or P - "N/P-fertilizer". For purposes of this section only, reclaimed water does not fall under the definition of fertilizer.

Granular means composed of small grains or particles. Granular does not include products mixed with water prior to application.

Guaranteed analysis means the percentage of plant nutrients or measures of neutralizing capability claimed to be present in the fertilizer.

Illicit connections means point source discharges to the city's MS4 or to waters of the U.S., which are not composed entirely of stormwater and are not authorized by a National Pollutant Discharge Elimination System (NPDES) permit. Failure of an industrial facility or construction site to notify the city manager or designee of a connection to the city's MS4 constitutes an illicit connection.

Illicit discharge means any discharge to a MS4 or to waters of the U.S. that is not composed entirely of stormwater, with the exception of discharges which are exempt pursuant to [section 12-618](#). Any discharge in violation of an NPDES permit shall constitute an illicit discharge.

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 water. It includes surfaces such as compacted sand, limerock, or clay, as well as conventionally surfaced streets, sidewalks, parking lots, and other similar surfaces.

Industrial activities means activities which are conducted on properties designated for industrial land use in accordance with the city comprehensive plan and/or at facilities identified by the U.S. EPA as requiring an NPDES stormwater permit under the definition of "Storm Water Discharge Associated with Industrial Activity" in title 40, section 122.26 of the Code of Federal Regulations or any amendment thereto.

Inspection means and includes, but is not limited to, any on-site physical examination of all facilities and grounds which may discharge to a MS4, a review of all records on operation and maintenance of facilities and the results of any monitoring performed for compliance with state, federal and local regulations or permit conditions.

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.

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

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

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

Municipal separate storm sewer system (MS4) means a conveyance or system of conveyances (including, but not limited to, roads with drainage systems, streets, catchbasins, curbs, gutters, ditches, manmade channels or storm drains) owned or operated by a local government that discharges to waters of the United States or connects to other MS4s, that is designed solely for collecting or conveying stormwater, and that is not part of a publicly owned treatment works (POTW) as defined by 40 CFR 122.2 or any amendment thereto.

National Pollutant Discharge Elimination System (NPDES) means the federal program for issuing, modifying, revoking, reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318 and 405 of CWA. The term also includes an "approved program."

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

Person means any natural person, individual, public or private corporation, firm, association, joint venture, partnership, municipality, governmental agency, political subdivision, public officer, or any other entity whatsoever, or any combination of such, jointly or severally.

Point source means any discernible and confined conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, container, rolling stocks, concentrated animal feeding operation, vessel, or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

Pollutant means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC 2011 et seq.)), heat, wrecked or discharged equipment, rock, sand, and industrial, municipal, and agricultural waste discharged into water.

Restricted Season means June 1st through September 30th.

Site Supervisor means the direct supervisor of landscape maintenance personnel.

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 turf used for athletic fields, golf courses, golf course practice areas, and other private or public athletic fields.

Stormwater means surface runoff and drainage of water resulting from rainfall.

Surface water means those waters as identified by section 62-340.600, Florida Administrative Code (F.A.C.), which include waters upon the surface of the earth, whether contained in bounds created naturally or artificially or diffused. They shall include, but not be limited to, bays, rivers, streams, lakes, ponds, swamps, wetlands, canals, springs, impoundments and all other waters or bodies of water, including fresh, brackish or saline, tidal or intermittent, which are located, either entirely or partially, within the geographic boundaries of the City.

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

Waters of the United States (U.S.) means as defined by the U.S. Environmental Protection Agency (EPA) in title 40, section 122 of the Code of Federal Regulations or any amendment thereto.

(Code 2001, § 25.716.2; Ord. No. 1352, § 2, 11-19-2013)

Sec. 12-618. - Exemptions.

The following activities shall be exempt from the requirements of Sections [12-619](#) through [12-627](#) of this division:

(1) Discharges from:

- a. Water line flushing;
- b. Landscape irrigation;
- c. Uncontaminated groundwater infiltration (as defined at 40 CFR 35.2005(20) to separate storm sewers;
- d. Uncontaminated pumped groundwater;
- e. Discharges from potable water sources;
- f. Air conditioning condensate;
- g. Swimming pools;
- h. Irrigation water;
- i. Springs;
- j. Lawn watering;
- k. Individual residential car washing;
- l. Flows from riparian habitats and wetlands;
- m. Street wash waters; and
- n. Discharges or flows from emergency fire fighting activities, and emergency response activities employing best management practices.

(2) Discharges which meet the water quality standards of F.A.C. 62-302.

(3) Discharges from facilities in compliance with the conditions of all required NPDES permits issued under the authority of the U.S. Environmental Protection Agency.

(Code 2001, § 25.716.11; Ord. No. 1352, § 3, 11-19-2013)

Sec. 12-619. - Enforcement, penalties and legal proceedings.

- (a) This division shall be administered by the city manager or designee. All persons in violation of this division shall address such violations immediately upon written notification by the city. Violations shall be addressed by providing a written response to the city manager or designee, requesting outlining the temporary and permanent measures that will be taken to correct the violation and a proposed schedule for completion of each of the corrective measures. Proposals for corrective action are subject to the approval of the city manager or designee.
- (b) The city manager or designee is authorized to issue cease and desist orders in the form of written official notice sent by registered mail to the person(s) responsible for the violation. Specific activities and operations may be ordered to be ceased based upon the following conditions:
 - (1) In a situation that may have a serious effect on the health, safety or welfare of the public or the environment, including the operation of and quality of stormwater in the city's MS4.
 - (2) When irreversible or irreparable harm may result, in the reasonable opinion of the city manager or designee, and immediate cessation of the activity is necessary to protect the public or the environment, including the operation of and quality of stormwater in the city's MS4.
- (c) Any person who violates this division and/or fails to comply with the requirements of subsection (a) or (b) of this section shall be subject to legal action before the municipal code enforcement board or the City's Supplemental Enforcement Procedures and shall be subject to administrative fines and liens, or other penalties, as set forth in F.S. Ch. 162. Each day of noncompliance shall constitute a separate violation.
- (d) In addition to any fines which may be imposed by this division, persons responsible for a discharge which adversely impacts a receiving water shall be liable for all sampling and analytical costs incurred in monitoring the discharge, any state or federal fines imposed as a result of the discharge and the cost of removing or properly treating the discharge for complete restoration of the quality of all receiving waters.
- (e) If the person(s) responsible for a violation fails to take action(s) as required in this section, the city has the right to take remedial action. All costs incurred by the city in taking such action(s) shall be reimbursed by the person(s) responsible for the violation.
- (f) In addition to the remedies provided herein, the city is authorized to make application in a court of appropriate jurisdiction for an injunction restraining any person from violating, or continuing to violate, any provisions of this division. In addition, the city may also seek entry of a court order requiring restoration and mitigation for any impacted land or waters or request any other appropriate, applicable legal remedy, including reimbursement of court costs.
- (g) The city may elect any or all of the above remedies concurrently, and the pursuance of one shall not preclude the pursuance of another.

(Code 2001, § 25.716.12; Ord. No. 1083, 1-21-2003; Ord. No. 1352, § 4, 11-19-2013)

Sec. 12-620. - Control of stormwater discharges.

- (a) Discharges to the city's MS4 shall be controlled to the extent that such discharges will not impair the operation of the MS4 or contribute to the failure of the MS4 to meet any local, state or federal requirements. Discharges to waters of the U.S. shall be controlled to the extent that

the discharge will not adversely impact the quality or beneficial uses of the receiving water or result in violation of any federal, state or local laws.

- (b) Any person responsible for discharges determined by the city to be contributing to the degradation of the city's MS4 or the waters of the U.S., either directly or through a MS4, shall provide corrective measures in accordance with a schedule approved by the city and may be subject to paying fines and damages.

(Code 2001, § 25.716.3)

Sec. 12-621. - Stormwater discharges from industrial activities and construction activities.

- (a) Stormwater from construction sites shall be controlled in such a way as to retain sediment on-site and prevent violations of state water quality standards or NPDES permits. All erosion, pollution, and sediment controls required pursuant to the pollution prevention plan of a NPDES stormwater permit for construction or required pursuant to a state stormwater permit issued by either the Florida Department of Environmental Protection or the Southwest Florida Water Management District shall be properly implemented, maintained and operated.
- (b) Stormwater from areas of industrial activity shall be treated or managed on-site, using best management practices, in accordance with NPDES permits, prior to discharging to the city's MS4 or to waters of the U.S. All stormwater discharges from the site shall be of a quality which will not adversely impact the water quality or beneficial uses of the receiving water.
- (c) The owners or operators of industrial facilities or construction sites which will discharge stormwater to the city's MS4 or to waters of the U.S. must provide written notification of connection to the city prior to discharging.

(Code 2001, § 25.716.4)

Sec. 12-622. - Control of pollutant contributions from interconnected MS4s.

The discharge of stormwater between interconnected state, county or other MS4s shall not impair the quality of the discharge of the receiving MS4. Owners of sections of an interconnected MS4 shall be responsible for the quality of discharge from their portion of the system and shall coordinate with the owners of the downstream segments prior to the connections into their systems.

(Code 2001, § 25.716.5)

Sec. 12-623. - Prohibition of illicit discharges and illicit connections.

Any discharge, other than stormwater, to the city's MS4 or to waters of the U.S. which is not exempt under [section 12-618](#), and any connection which is not composed entirely of stormwater or specifically permitted through an NPDES permit, is considered an illicit discharge or an illicit connection and is prohibited.

(Code 2001, § 25.716.6)

Sec. 12-624. - Reporting illicit discharges or illicit connections.

Upon discovery of an illicit discharge or an illicit connection, persons responsible for the discharge or the connection shall report their findings by telephone immediately to the city and follow within 48 hours with written notification.

(Code 2001, § 25.716.7)

Sec. 12-625. - Control of illicit discharges or illicit connections.

Persons responsible for illicit discharges or illicit connections shall immediately, upon notification or discovery, initiate procedures to cease discharging or provide suitable containment facilities. Such procedures shall include a requirement to obtain approval from the city manager or designee of a schedule for implementing proposed corrective measures.

(Code 2001, § 25.716.8)

Sec. 12-626. - Inspection and monitoring for compliance.

City personnel shall be granted access for inspection of facilities discharging or suspected of discharging to the city's MS4 or waters of the U.S. in order to effectuate the purposes of this Section and to investigate violations or potential violations of any of the terms herein. All structures and processes which allow discharges to the city's MS4, as well as records concerning them, shall be made accessible to city personnel for monitoring of the quality of the discharges.

(Code 2001, § 25.716.9)

Sec. 12-627. - Maintenance of control structures.

Structural controls and other BMPs used to reduce pollutants in stormwater discharges shall be operated and maintained so as to function in accordance with the permitted design or performance criteria in compliance with NPDES or other permit conditions. Operation and maintenance shall be done so as to assure treatment of stormwater or reduction in pollutants in stormwater discharges consistent with appropriate federal, state, water management district, or local rules or permit requirements.

(Code 2001, § 25.716.10)

Sec. 12-628. - Fertilizer and landscape management.

- (1) *Purpose.* To reduce the impairment to the surface waters of Temple Terrace caused by excessive nutrients, and to decrease levels of nitrogen in the surface and/or ground water within the aquifers or springs within Temple Terrace in compliance with the City's NPDES permit.
- (2) *Intent.* The intent of this section is to regulate the proper use of fertilizers by any applicator; require proper training of commercial and institutional fertilizer applicators and landscape maintenance companies by establishing training and licensing requirements; establish a prohibited application period; specify allowable fertilizer application rates and methods, fertilizer-free zones, low maintenance zones, exemptions, and training and licensing requirements. This Section requires the use of best management practices (BMPs) 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 Temple Terrace's stormwater and drainage conveyances, rivers, creeks, canals, springs, ponds, estuaries and other water bodies, whether they are natural or artificial. Collectively, these water bodies are an asset critical to the environmental, recreational, cultural, and economic well-being of City of Temple Terrace residents and the health of the public. Overgrowth of algae and vegetation hinder the effectiveness of flood attenuation provided by natural and artificial stormwater conveyances. Regulation of nutrients, including both phosphorus and nitrogen contained in fertilizer, will help improve and maintain water and habitat quality.

- (3) *Applicability.* This section shall be applicable to and shall regulate any and all applicators of fertilizer, areas of application of fertilizer, and landscape maintenance activities within Temple Terrace, unless such applicator or activity is specifically exempted by the terms of this Section from the regulatory provisions of this Section. Exemptions are located in sub-section (9).
- (4) *Weather and seasonal restrictions.* No applicator shall apply fertilizers containing nitrogen and/or phosphorus to turf and/or landscape plants during ~~one or more~~ any of the following time periods or events:
 - i) if it is raining at the application site, or
 - ii) within the time period during which a flood watch or warning, or a tropical storm watch or warning, or a hurricane watch or warning is in effect for any portion of Temple Terrace, issued by the National Weather Service, or
 - iii) within 36 hours prior to a rain event greater than or equal to 2 inches in a 24 hour period is likely; or
 - iv) between June 1 through September 30 unless subject to an exemption set forth in subsection (9) below.
- (5) *Fertilizer content and application rate.*
 - (a) N/P-fertilizers shall be applied to turf and/or landscape plants at the recommended rate per the "Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries", December 2008, as revised. However, no more than four (4) pounds of nitrogen per 1000 ft² shall be applied in any calendar year.
 - (b) No fertilizer containing phosphorus shall be applied to turf and/or landscape plants in Temple Terrace, except where phosphorus deficiency has been demonstrated in the soil underlying the turf and/or landscape plants by a soil analysis test performed by a State of Florida-certified laboratory. Any person who obtains such a soil analysis test showing a phosphorus deficiency and who wishes to apply phosphorus to turf and/or landscape plants shall ~~maintain a copy of the test results for two years and allow the City Manager or his designee to review the results upon request.~~ mail a copy of the test results to the Public Works Department Stormwater Division, 11210 N 53rd St., Temple Terrace, FL 33617 prior to the application of phosphorus.
 - (c) Nitrogen fertilizer shall not be applied before planting new turf or on newly established turf for the first 30 days.
 - (d) Liquid fertilizers containing nitrogen applied to turf and/or landscape plants within Temple Terrace shall not be applied at a rate that exceeds 0.5 lbs/1000 ft² per application.
 - (e) Granular fertilizers containing nitrogen applied to turf and/or landscape plants within the City shall contain no less than 50% slow release nitrogen per guaranteed analysis label.

(fe) It is a violation of this Section to fail to comply with the provisions of this Section and any requirements set forth in Rule 5E-1.003(2), F.A.C., Labeling Requirements For Urban Turf Fertilizers.

(6) *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. Fertilizer shall not 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 spreader. Deflector shields must be positioned such that fertilizer granules are deflected away from all impervious surfaces and surface waters.

(7) *Fertilizer-free zones.* Fertilizer shall not be applied within ten (10) feet from the landward extent of any surface water as identified in section 62-340.600(2), F.A.C.

(8) *Management of grass clippings and vegetative material.* It shall be a violation of this section for any person to wash, sweep, blow or otherwise cause grass clippings, leaves, or other vegetative material to be deposited into stormwater drains, ditches, drainage conveyances, sewer systems, surface waters, or roadways.

(9) *Exemptions.*

(a) The following activities are exempt from this section:

1. *Golf courses.* For all golf courses and associated practice areas, the provisions of the FDEP document, "BMPs for the Enhancement of Environmental Quality on Florida Golf Courses, January 2007," as updated, are required and shall be followed.

2. Bona fide farm operations as defined in the Florida Right to Farm Act, F.S. § 823.14.

3. Other properties not subject to or covered under the Florida Right to Farm Act that have pastures for grazing livestock;

4. Any lands used for bona fide scientific research, including, but not limited to, research on the effects of fertilizer use on urban stormwater, water quality, agronomics or horticulture.

5. Yard waste compost, mulches, or other similar materials that are primarily organic in nature and are applied to improve the physical condition of soil.

(b) Sub-section (5) (Fertilizer content and application rate) shall not apply to fertilizer applications on specialized turf, including but not limited to, privately and publicly operated athletic fields. Specialized turf managers must follow the provisions and directions in section 5E-1.003(2)(d), F.A.C., all other provision of this Section, and all applicable provisions of the Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries, as updated. Notwithstanding the definition of specialized turf, golf course and golf practice areas are governed by the exemption in subsection (a)(1) above.

(10) *Certification and training.*

(a) All commercial applicators and their supervisors, as well as government and institutional applicators, site supervisors and managers of professional landscape supervisors, and any employee of a lawn and landscape maintenance company performing fertilizer application shall

(i) abide by and successfully complete a University of Florida Institute of Food and Agricultural Sciences (IFAS) approved BMP training program and have and carry in their

possession at all times a copy of the certificate of completion of such program when applying fertilizer within the City,

(ii) comply with Rule Chapter 1-15 of the Environmental Protection Commission of Hillsborough County (EPCHC), and

(iii) after December 31, 2013, have and carry in their possession at all times when applying fertilizer within the City evidence of certification by the Florida Department of Agriculture and Consumer Services as a Commercial Fertilizer Applicator per Rule 5E-14.117(18), F.A.C. The certificates required herein shall be provided to the City of Temple Terrace representative such as a Code Enforcement Officer or Public Works Department Stormwater Division staff upon request.

(b) A vehicle decal issued by the EPCHC Executive Director or other authorized organization indicating that the company is in compliance with the training and certification requirements of Chapter 1-15 of the EPCHC shall be affixed and maintained on the exterior of all vehicles used by any company in connection with landscape maintenance activities and/or the application of fertilizer within the City.

(c) All businesses applying fertilizer to turf and/or landscape plants (including but not limited to residential lawns, golf courses, commercial properties, and multi-family and condominium properties) must ensure that at least one employee has a "Florida Friendly Best Management Practices for Protection of Water Resources by the Green Industries" training certificate or a certificate from a substantially equivalent training program prior to the business owner obtaining a Local Business Tax Certificate. Owners of any category of occupation which may apply any fertilizer to turf and/or landscape plants shall provide proof of completion of such a program to the City.

(11) *Recommendations and additional information.*

(a) A voluntary six (6) foot low-maintenance, "no-mow" zone is strongly recommended from those areas described as fertilizer-free zones in sub-section (7) to reduce the potential for N/P-fertilizer residue entering adjacent water bodies and wetlands. A swale/berm system is recommended for installation at the landward edge of this low maintenance zone to capture and filter runoff. 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 County and municipal water departments.

(c) The City strongly recommends the establishment of training programs using English and Spanish-speaking certified BMP trainers.

(d) The City recommends that private homeowners become familiar with and utilize the recommendations of the current IFAS Florida Yards and Neighborhoods Handbook when applying fertilizer.

~~(e) It is recommended that granular fertilizers containing nitrogen applied to turf and/or landscape plants contain the maximum available percent of slow release nitrogen possible per guaranteed analysis label.~~

~~(ef)~~ Collection and proper disposal of pet waste is encouraged, consistent with City Code [Section 6-37](#).

~~(fg)~~ This section is not applicable to farm manure products and dolomite.

(~~g~~h) The City will conduct an educational campaign regarding this section.

(~~h~~i) Funds generated by penalties imposed for violation of the provisions of this section shall be used by the City for the administration and enforcement of this section, and to further water conservation and nonpoint pollution prevention activities.

(Ord. No. 1352, § 5, 11-19-2013)

Secs. 12-629—12-657. - Reserved.