

ORDINANCE NO. 2017-\_\_\_\_

SEMINOLE COUNTY, FLORIDA

2 AN ORDINANCE AMENDING CHAPTER 270, “WATER AND SEWER”,  
3 SEMINOLE COUNTY CODE, BY ADDING PART 12, “PROPER USE OF  
4 FERTILIZERS”; REGULATING THE PROPER USE OF FERTILIZERS  
5 BY ANY APPLICATOR; PROVIDING LEGISLATIVE FINDINGS;  
6 PROVIDING DEFINITIONS; PROVIDING FOR APPLICABILITY  
7 WITHIN SEMINOLE COUNTY; ESTABLISHING A PROHIBITED  
8 APPLICATION PERIOD; SPECIFYING ALLOWABLE FERTILIZER  
9 APPLICATION RATES AND METHODS, FERTILIZER-FREE ZONES,  
10 LOW MAINTENANCE ZONES, AND EXEMPTIONS; REQUIRING THE  
11 USE OF BEST MANAGEMENT PRACTICES WHICH PROVIDE  
12 SPECIFIC MANAGEMENT GUIDELINES TO MINIMIZE NEGATIVE  
13 SECONDARY AND CUMULATIVE ENVIRONMENTAL EFFECTS  
14 ASSOCIATED WITH THE MISUSE OF FERTILIZERS WHICH HAVE  
15 BEEN OBSERVED IN AND ON SEMINOLE COUNTY’S NATURAL AND  
16 CONSTRUCTED STORMWATER CONVEYANCES, RIVERS, CREEKS,  
17 CANALS, SPRINGS, LAKES AND OTHER WATERBODIES;  
18 REQUIRING PROPER TRAINING OF COMMERCIAL AND  
19 INSTITUTIONAL FERTILIZER APPLICATORS; ESTABLISHING  
20 TRAINING AND LICENSING REQUIREMENTS; PROVIDING FOR  
21 ENFORCEMENT AND PENALTIES; AMENDING CHAPTER 53, “CODE  
22 ENFORCEMENT”, SEMINOLE COUNTY CODE, TO PROVIDE FOR  
23 PENALTIES; PROVIDING FOR CODIFICATION IN THE SEMINOLE  
24 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  
36 Statutes (2016), by December 31, 2013 (the “Model Ordinance”); and

38 **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

40 **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  
42 instant Ordinance are to receive credits and otherwise comply with all applicable Total Maximum  
Daily Loads (TMDLs) and Basin Management Action Plans (BMAPs),

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

46 **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:

48 **PART 12. PROPER USE OF FERTILIZERS**

**Sec. 270.461. Findings.** As a result of impairment to surface waters caused by excessive  
50 nutrients, and as a result of increasing levels of nitrogen in the surface and ground water within  
the aquifers and springs, the Board of County Commissioners hereby determines that the use of  
52 Fertilizers creates a risk to contributing to adverse effects on surface and ground water.  
Accordingly, the county commission hereby finds that management measures contained in the  
54 most recent edition of the *Florida-Friendly Best Management Practices for Protection of Water*  
*Resources by the Green Industries* are required.

56 **Sec. 270.462. Purpose and Intent.** This Part 12: (a) regulates the proper use of  
Fertilizers by any Applicator; (b) requires proper training of commercial and Institutional Fertilizer  
58 Applicators; (c) establishes training and licensing requirements; (d) establishes a Prohibited

Application Period; and (e) specifies allowable Fertilizer Application rates and methods, Fertilizer free zones, Low Maintenance Zones, and exemptions. This Part 12 requires the use of Best Management Practices, which provide specific management guidelines to minimize negative secondary and cumulative environmental effects associated with the misuse of Fertilizers. These secondary and cumulative effects have been observed in and on natural and constructed stormwater conveyances, rivers, creeks, canals, springs, lakes, and other water bodies. Collectively, these water bodies are an asset critical to the environmental, recreational, cultural, and economic well-being of county residents and the health of the public in general. Overgrowth of algae and vegetation hinder the effectiveness of flood attenuation provided by natural and constructed stormwater conveyances. Regulation of nutrients, including both nitrogen and phosphorus contained in Fertilizer, will help improve and maintain water and habitat quality.

**Sec. 270.463. Definitions.** For the purposes of this Part 12, the following terms have the meanings set forth in this Section. Words not defined in this Part 12 have the meaning as provided in other Sections of this Code, and otherwise have the meaning provided by common and ordinary use:

*Application or Apply.* The actual physical deposit of Fertilizer to Turf, Landscape Plants, or both.

*Applicator.* Any Person who Applies Fertilizer on Turf, Landscape Plants, or both.

*Approved Best Management Practices Training Program.* A training program approved pursuant to Section 403.9338, *Florida Statutes* (2016), as this statute may be amended from time to time, or any more stringent requirements set forth in this article that includes the most current version of the Florida Department of Environmental Protection’s *Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries*, as this document may be amended from time to time.

Best Management Practices. Turf and landscape practices or a combination of practices  
84 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  
86 improving water quality, conserving water supplies and protecting natural resources.

Code Enforcement Officer, Official or Inspector. Any designated employee or agent who  
88 has the duty to enforce codes and ordinances.

Commercial Fertilizer Applicator. Any Person who Applies Fertilizer for payment or  
90 other consideration to property not owned by the Person or firm Applying the Fertilizer or the  
employer of the Applicator, except as provided in Section 482.1562(9), Florida Statutes (2016),  
92 as this statute may be amended from time to time.

Fertilize. The act of Applying Fertilizer to Turf, specialized Turf, or Landscape Plants.

94 Fertilizer. 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  
96 soil enrichment, or provides other corrective measures to the soil. Fertilizer does not include  
unmanipulated peat or compost that make no claims as described in the preceding sentence.

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

100 Institutional Fertilizer Applicator. Any Person, other than a private, non-commercial or  
a Commercial Fertilizer Applicator (unless such definitions also apply under the circumstances),  
102 that Applies Fertilizer for the purpose of maintaining Turf, Landscape Plants, or both. Institutional  
Fertilizer Applicators include, but are not limited to, owners, managers or employees of public  
104 lands, schools, parks, religious institutions, utilities, industrial, or business sites and any residential  
properties maintained in condominium or other form of common ownership.

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

108 Low Maintenance Zone. An area a minimum of ten (10) feet wide adjacent to water  
courses that is planted and managed in order to minimize the need for Fertilization, watering,  
mowing, and related activities.

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

Prohibited Application Period. The time period during which a Flood Watch or Warning,  
114 or a Tropical Storm Watch or Warning, or a Hurricane Watch or Warning is in effect for any  
portion of the County, issued by the National Weather Service, or if heavy rain, as defined by the  
116 World Meteorological Organization as rainfall greater than or equal to two (2) inches in a twenty-  
four (24) hour period, is likely.

118 Reclaimed Water. A high quality alternative water source that has received at least  
secondary treatment and is reused after being discharged from a domestic wastewater treatment  
120 facility. Moreover, there are some constituents, such as nitrogen and phosphorus found in recycled  
water. These constituents are beneficial for plant growth, and will serve as an additional  
122 “Fertilizing” source.

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

126 Slow Release, Controlled Release, Timed Release, Slowly Available, or Water Insoluble  
Nitrogen. Nitrogen in a form that delays its availability for plant uptake and use after Application  
128 or that extends its availability to the plant longer than a reference rapid or quick release product.

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

130        **Sec. 270.464. Applicability.** This Part 12 applies to and regulates any and all  
132        Applicators of Fertilizer and areas of Application of Fertilizer within the unincorporated areas of  
134        the County, unless such Applicator is specifically exempted by the terms of this Part 12. This Part  
136        12 operates prospectively only, and does not impair any existing contracts

134        **Sec. 270.465. Timing of Fertilizer Application.**

136        (a)    No Applicator may Apply Fertilizers containing nitrogen, phosphorus, or both to  
138        Turf, Landscape Plants, or both during the Prohibited Application Period, or to Saturated Soils.

138        (b)    Fertilizer containing nitrogen or phosphorus may not be Applied before seeding or  
140        sodding a site, and may not be Applied for the first thirty (30) days after seeding or sodding, except  
142        when hydro-seeding for temporary or permanent erosion control in an emergency situation, or in  
144        accordance with an adopted stormwater pollution prevention plan for that site.

142        (c)    Fertilizer containing nitrogen or phosphorus may not be Applied to Turf or  
144        Landscape Plants from June 1 through September 30 of each year.

144        **Sec. 270.466. Fertilizer Free Zones.** Fertilizer may not be Applied within fifteen (15)  
146        feet of any pond, stream, watercourse, lake, canal, or wetland as defined by the Florida Department  
148        of Environmental Protection Rule 62-340, Florida Administrative Code (2016), as this regulation  
150        may be amended from time to time, or from the top of a seawall. Newly planted Turf, Landscape  
152        Plants, or both may be Fertilized in this zone only for a sixty (60) day period beginning thirty (30)  
154        days after planting if needed to allow the plants to become well established. Caution must be used  
156        to prevent direct deposition of nutrients into the water.

150        **Sec. 270.467. Low Maintenance Zones.** A voluntary ten (10) foot Low Maintenance  
152        Zone is strongly recommended, but not mandated, from any pond, stream, water course, lake,  
154        wetland, or from the top of a seawall. A swale/berm system is recommended for installation at the  
156        landward edge of this Low Maintenance Zone to capture and filter runoff. No mowed or cut

154 vegetative material may be deposited or left remaining in this zone or deposited in the water. Care  
155 must be taken to prevent the over-spray of aquatic weed products in this zone.

156 **Sec. 270.468. Fertilizer Content and Application Rates.**

(a) Fertilizers Applied to Turf must be Applied in accordance with requirements and  
158 directions provided by Rule 5E-1.003, Florida Administrative Code, “Fertilizer Label  
Requirements for Urban Turf, Sports Turf or Lawns” (2016), as this regulation may be amended  
160 from time to time.

(b) Nitrogen or phosphorus Fertilizer may not be Applied to Turf or Landscape Plants  
162 except as provided in subsection (a) for Turf, or in the University of Florida/IFAS  
recommendations for Landscape Plants, vegetable gardens, and fruit trees and shrubs, unless a soil  
164 or tissue deficiency has been verified by an approved test.

(c) Fertilizers containing phosphorus may not be Applied to Turf, Sod, Lawns or  
166 Landscape Plants in Seminole County. No Fertilizer containing phosphorus may be Applied to  
Turf, Sod, Lawns, or Landscape Plants unless a soil or plant tissue deficiency is verified by a  
168 testing methodology approved by the University of Florida, Institute of Food and Agricultural  
Sciences. If a deficiency is verified, the Application of Fertilizer containing phosphorus must  
170 adhere to the rates and directions for the appropriate Region of Florida, as adopted by Florida  
Administrative Code Rule. This subsection (c) controls over any inconsistent provisions in  
172 subsections (a) and (b) above regarding phosphorus.

(d) Fertilizers containing nitrogen Applied to Turf or landscaping plants within  
174 Seminole County must contain no less than fifty percent (50%) Slow Release Nitrogen per  
Guaranteed Analysis Label. If the necessary product is available on the local commercial market  
176 on March 1, 2020, then this requirement will increase to no less than sixty-five percent (65%) Slow

178 Release Nitrogen effective on this date. This subsection (d) controls over any inconsistent provisions in subsections (a) and (b) above regarding nitrogen.

180 (e) The above referenced Application rates must be reduced appropriately on properties where reclaimed wastewater is used for irrigation based on available nutrients in the Reclaimed Water as reported by the provider of the Reclaimed Water.

182 **Sec. 270.469. Application Practices.**

184 (a) Spreader deflector shields are required when Fertilizing by rotary or broadcast spreaders. Deflectors must be positioned such that Fertilizer granules are deflected away from all impervious surfaces, Fertilizer free zones, and water bodies, including wetlands.

186 (b) Fertilizer must not be Applied, spilled, or otherwise deposited on any impervious surfaces.

188 (c) Any Fertilizer Applied, spilled, or deposited, either intentionally or accidentally, on any impervious surface must be immediately and completely removed to the greatest extent practicable.

192 (d) 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.

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

196 **Sec. 270.470. Management of Grass Clippings and Vegetative Matter.** In no case may grass clippings, vegetative material, vegetative debris, or any combination of them be washed, swept, or blown off into stormwater drains, ditches, conveyances, water bodies, wetlands, or sidewalks, or roadways. Any material that is accidentally so deposited must be immediately removed to the maximum extent practicable.

200



**Sec. 270.471. Exemptions.** This Part 12 does not apply to:

202 (a) Bona fide farm operations as defined in Section 823.14, *Florida Statutes* (2016),  
“Florida Right to Farm Act”, as this statute may be amended from time to time.

204 (b) Other properties not subject to or covered under subsection (a) above that have  
pastures used for grazing livestock.

206 (c) Any lands used for bona fide scientific research, including, but not limited to,  
research on the effects of Fertilizer use on stormwater, water quality, agronomics, or horticulture.

208 (d) Golf courses, athletic fields and Turf managed for active recreation, whose owners  
implement Best Management Practices as described in Rule 5E-1.003(2)(d), *Florida*  
210 *Administrative Code*, “Fertilizers Labeled for Sports Turf at Golf Courses, Parks and Athletic  
Fields” (2016), as this regulation may be amended from time to time.

212 (e) Any fruit or vegetable gardens, provided they are not within fifteen (15) feet of any  
waterbody or wetland.

214 **Sec. 270.472. Training.**

(a) All commercial and Institutional Fertilizer Applicators shall abide by and  
216 successfully complete the six-hour training program in the *Florida-Friendly Best Management*  
*Practices for Protection of Water Resources by the Green Industries* offered by the Florida  
218 Department of Environmental Protection through the University of Florida/IFAS *Florida-Friendly*  
*Landscapes* program, or an approved equivalent.

220 (b) Private, non-commercial Applicators are encouraged to follow the  
recommendations of the University of Florida/IFAS *Florida Friendly Landscapes* program when  
222 Applying Fertilizers.

**Sec. 270.473. Licensing of Commercial Fertilizer Applicators.**

224 (a) By September 30, 2014, all Commercial Fertilizer Applicators were required by  
state law to abide by and successfully complete training and continuing education requirements in  
226 the Florida-Friendly Best Management Practices for Protection of Water Resources by the Green  
Industries, offered by the Florida Department of Environmental Protection through the University  
228 of Florida/IFAS Florida-Friendly Landscapes program, or an approved equivalent program.  
Commercial Fertilizer Applicators shall provide proof of completion of the program prior to  
230 obtaining a new Local Business Tax Receipt for any category of occupation which may Apply any  
Fertilizer to Turf, Landscape Plants, or both. Commercial Fertilizer Applicators with an existing  
232 Local Business Tax receipt for any category of occupation which may Apply any Fertilizer to Turf,  
Landscape Plants, or both shall provide proof of completion of the program within thirty (30) days  
234 after completing the program as required by state law prior to September 30, 2014.

(b) After September 30, 2014, all Commercial Fertilizer Applicators were required by  
236 state law to have and carry in their possession at all times when Applying Fertilizer, evidence of  
certification by the Florida Department of Agriculture and Consumer Services as a Commercial  
238 Fertilizer Applicator pursuant to Rule 5E-14.117(18), Florida Administrative Code (2016), as this  
regulation may be amended from time to time.

240 (c) By September 30, 2014, all businesses Applying Fertilizer to Turf, Landscape  
Plants, or both (including but not limited to residential Lawns, commercial properties, and multi-  
242 family and condominium properties) were required by state law to ensure that at least one  
employee has a Florida-Friendly Best Management Practices for Protection of Water Resources  
244 by the Green Industries training certificate. Business owners for any category of occupation which  
may Apply any Fertilizer to Turf, Landscape Plants, or both shall provide proof of completion of  
246 the program by at least one employee prior to the business owner obtaining a new Local Business

248 Tax Receipt. Business owners for any category of occupation which may Apply any Fertilizer to  
Turf, Landscape Plants, or both with an existing Local Business Tax Receipt shall provide proof  
250 of completion of the program by at least one employee within thirty (30) days after completing the  
program and prior to September 30, 2014.

**Sec. 270.474. Enforcement, Penalties and Legal Proceedings.**

252 (a) Any Person found to be in violation of the provisions of this Part 12 may be subject  
to any applicable civil enforcement mechanisms available to the County, including, but not limited  
254 to: injunctive relief; referral to the Seminole County Code Enforcement Board or Code  
Enforcement Magistrate; or issuance of a citation pursuant to Section 53, Part 2, of this Code.

256 (b) 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  
258 Section 162.21(3)(b), Florida Statutes (2016), as these provisions may be amended from time to  
time, a County Code Enforcement Officer may immediately issue a citation to any Person in  
260 violation of this Part 12 if the Code Enforcement Officer has reason to believe that the violation  
presents a serious threat to the public health, safety, or welfare, or if the violation is irreparable or  
262 irreversible.

(c) Each incidence of violation under this Part 12 constitutes a separate violation and  
264 offence and a separate offence will be deemed committed on each day during or on which a  
violation occurs or continues.

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

(e) The County may elect to take any or all of the above remedies concurrently, and 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 which are not used for specific purposes set forth in this Part 12, as it may be amended from time to time, must be deposited in the General Fund of the County in the penalty, fine and forfeiture account.

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

\* \* \*

**Section 53.32. Schedule of Violations and Penalties.**

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

\* \* \*

CLASS I

\* \* \*

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

\* \* \*

**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  
296 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.

298 **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;  
300 provided, however, no citations, notices to appear, notices of violation or other enforcement  
procedures may be instituted until [REDACTED], 2017.

302 **BE IT ORDAINED** by the Board of County Commissioners of Seminole County, this  
\_\_\_\_\_ day of \_\_\_\_\_, 2017.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
SEMINOLE COUNTY, FLORIDA

\_\_\_\_\_  
GRANT MALOY  
Clerk to the Board of  
County Commissioners of  
Seminole County, Florida

\_\_\_\_\_  
JOHN HORAN, Chairman

DGS/sjs  
2/6/17

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