

NOTICE OF ENACTMENT OF ORDINANCE

BY THE BOARD OF COMMISSIONERS

OF GILCHRIST COUNTY, FLORIDA

NOTICE IS HEREBY GIVEN that an ordinance, which title hereinafter appears, will be considered for enactment by the Board of Commissioners of Gilchrist County, Florida, at the regular meeting September 18, 2017 scheduled for 4:30 p.m., or as soon thereafter as the matter can be heard, in the Gilchrist County Board of County Commissioners meeting facility, located at 210 South Main Street, Trenton, Florida. Copies of said ordinance may be inspected by any member of the public at the Office of the County Clerk, Gilchrist County Courthouse, located at 112 South Main Street, Trenton, Florida during regular business hours. On the date, time and place first above mentioned, all interested persons may appear and be heard with respect to the ordinance.

**GILCHRIST COUNTY, FLORIDA**

**ORDINANCE NO. 2017-07**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF GILCHRIST COUNTY, FLORIDA ADOPTING THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION MODEL ORDINANCE FOR FLORIDA-FRIENDLY USE OF FERTILIZER ON URBAN LANDSCAPES; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR FILING WITH THE FLORIDA DEPARTMENT OF STATE; AND PROVIDING AN EFFECTIVE DATE.**

The public hearing may be continued to one or more future dates. Any interested party shall be advised that the date, time and place of any continuation of the public hearing shall be announced during the public hearing and that no further notice concerning the matter will be published.

“Persons with disabilities requesting reasonable accommodations to participate in this proceeding should contact (352) 463-3169 (Voice & TDD) or via Florida Relay Service (800) 955-8771”.

All persons are advised that, if they decide to appeal any decisions made at the public hearing, they will need a record of the proceedings and, for such purpose, they may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

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Publish: September 7, 2017.

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**WHEREAS**, in the Florida Springs and Aquifer Protection Act, Florida Statutes, Chapter 373, Part VIII, the Legislature found that a spring, which is a unique part of the State's scenic beauty, may be adversely affected by polluted runoff from urban and agricultural lands; discharges resulting from inadequate wastewater and stormwater management practices; stormwater runoff; and reduced water levels of the Floridian Aquifer; and

**WHEREAS**, the jurisdictional boundaries of Gilchrist County, Florida, include part of a springshed and/or delineated priority focus area of an Outstanding Florida Spring and therefore is a local government designated under Section 373.802(2), Florida Statutes; and

**WHEREAS**, Section 373.807(2), Florida Statutes require each local government, as defined in Section 373.802(2), to develop, enact, and implement an ordinance pursuant to the Model Ordinance for the Florida-Friendly Use on Urban Landscapes contained in Section 403.9337, Florida Statutes; and

**WHEREAS**, Section 403.9337(2), Florida Statutes, requires that any county located within a watershed of a water body or water segment that is listed as impaired by nutrients adopt, at minimum, the Model Ordinance for Florida-Friendly Use on Urban Landscapes; and

**WHEREAS**, in the process of adoption of this ordinance, Gilchrist County has considered all relevant and latest scientific information, advancements, and technological improvements in the industry; and

**WHEREAS**, the quality of the lakes, streams and wetlands in Gilchrist County are critical to the environmental, economic and recreational prosperity of the County and its residents; and

**WHEREAS**, the Board of County Commissioners seeks to enact a fertilizer use ordinance in compliance with the laws of the State of Florida.

**NOW, THEREFORE**, be it ordained by the Board of County Commissioners of Gilchrist County, Florida, as follows:

**Section 1. Recitals.** The foregoing recitals are true and correct and incorporated herein as if more fully written in their entirety below.

**Section 2. Amendment.** The Code of Ordinances of Gilchrist County, Florida is hereby amended to add and now include within Chapter 38 entitled Environment, a new Article VI, to be known as: "Fertilizer Use". The Codifier of the Code of Ordinances shall include this ordinance in the Code of Ordinances of Gilchrist County, Florida.

**Section 3. General.**

**1. FINDINGS**

As a result of impairment to Gilchrist County's surface waters caused by excessive nutrients, or, as a result of increasing levels of nitrogen in the surface and/or ground water within the aquifers or springs within the boundaries of county, the governing body of Gilchrist County has determined that the use of fertilizers on lands within the county creates a risk to contributing to adverse effects on surface and/or ground water. Accordingly, the Board of County Commissioners of Gilchrist County, Florida finds that management measures contained in the most recent edition of the "*Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries, 2008, as amended*" may be required by this ordinance.

**2. PURPOSE AND INTENT**

This Ordinance regulates the proper use of fertilizers by any applicator; requires proper training of Commercial and Institutional Fertilizer Applicators; establishes training and licensing requirements; establishes a Prohibited Application Period; specifies allowable fertilizer application rates and methods, fertilizer-free zones, low maintenance zones, and exemptions. The Ordinance requires the use of Best Management Practices which provide specific management guidelines to minimize negative secondary and cumulative environmental effects associated with the misuse of fertilizers. These secondary and cumulative effects have been observed in and on Gilchrist County's natural and constructed stormwater conveyances, rivers, creeks, canals, springs, lakes, estuaries and other water bodies. Collectively, these water bodies are an asset critical to the environmental, recreational, cultural and economic well-being of Gilchrist County residents and the health of the public. Overgrowth of algae and vegetation hinder the effectiveness of flood attenuation provided by natural and constructed stormwater conveyances. Regulation of nutrients, including both phosphorus and nitrogen contained in fertilizer, will help improve and maintain water and habitat quality.

**3. DEFINITIONS**

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

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

"Application" or "Apply" means the actual physical deposit of fertilizer to turf or landscape

plants.

“Applicator” means any Person who applies fertilizer on turf and/or landscape plants in Gilchrist County.

“Board or Governing Board” means the Board of County Commissioners of Gilchrist County, Florida.

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

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

“Commercial Fertilizer Applicator”, except as provided in 482.1562(9) F.S., means any person who applies fertilizer for payment or other consideration to property not owned by the person or firm applying the fertilizer or the employer of the applicator.

“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.

“Guaranteed Analysis” means the percentage of plant nutrients or measures of neutralizing capability claimed to be present in a fertilizer.

“Institutional Applicator” means any person, other than a private, non-commercial or a Commercial Applicator (unless such definitions also apply under the circumstances), that applies fertilizer for the purpose of maintaining turf and/or landscape plants. Institutional Applicators shall include, but shall not be limited to, owners, managers or employees of public lands, schools, parks, religious institutions, utilities, industrial or business sites and any residential properties maintained in condominium and/or common ownership.

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

“Low Maintenance Zone” means an area a minimum of ten (10) feet wide adjacent to water courses which is planted and managed in order to minimize the need for fertilization, watering, mowing, etc.

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

“Prohibited Application Period” means 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 Gilchrist County issued by the National Weather Service, or if heavy rain<sup>1</sup> is likely.

Gilchrist County Approved Best Management Practices Training Program” means a training program approved per 403.9338 F.S., 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*, 2008,” as revised, and approved by the county.

"Saturated soil" means a soil in which the voids are filled with water. Saturation does not require flow. For the purposes of this ordinance, soils shall be considered saturated if standing water is present or the pressure of a person standing on the soil causes the release of free water.

“Slow Release,” “Controlled Release,” “Timed Release,” “Slowly Available,” or “Water Insoluble Nitrogen” means nitrogen in a form which delays its availability for plant uptake and use after application, or which extends its availability to the plant longer than a reference rapid or quick release product.

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

"Urban landscape" means pervious areas on residential, commercial, industrial, institutional, highway rights-of-way, or other nonagricultural lands that are planted with turf or horticultural plants. For the purposes of this section, agriculture has the same meaning as in s. 570.02.

#### **4. APPLICABILITY**

This Ordinance shall be applicable to and shall regulate any and all applicators of fertilizer and areas of application of fertilizer within the entire area of Gilchrist County, Florida, unless any municipality therein shall choose to adopt its own ordinance under its home-rule authority addressing similar subject matter which is inconsistent with this ordinance, and unless such applicator is specifically exempted by the terms of this Ordinance from the regulatory provisions of this Ordinance. This Ordinance shall be prospective only, and shall not impair any existing contracts.

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<sup>1</sup> World Meteorological Organization definition of heavy rain: Rainfall greater than or equal to 50 mm (2 inches) in a 24 hour period. <http://severe.worldweather.org/rain/>, and forecast keyword “likely”, [http://www.wrh.noaa.gov/sew/MediaGuide/TermsOutlooks\\_Watches\\_Warnings.pdf](http://www.wrh.noaa.gov/sew/MediaGuide/TermsOutlooks_Watches_Warnings.pdf).

## **5. TIMING OF FERTILIZER APPLICATION**

No applicator shall apply fertilizers containing nitrogen and/or phosphorus to turf and/or landscape plants during the Prohibited Application Period, or to saturated soils.

## **6. FERTILIZER FREE ZONES**

Fertilizer shall not be applied within ten (10) feet of any pond, stream, watercourse, lake, canal, or wetland as defined by the Florida Department of Environmental Protection (Chapter 62-340, Florida Administrative Code) or from the top of a seawall, unless a deflector shield, drop spreader, or liquid applicator with a visible and sharply defined edge, is used, in which case a minimum of 3 feet shall be maintained. If more stringent County Code regulations apply, this provision does not relieve the requirement to adhere to the more stringent regulations. Newly planted turf and/or landscape plants may be fertilized in this Zone only for a sixty (60) day period beginning 30 days after planting if need to allow the plants to become well established. Caution shall be used to prevent direct deposition of nutrients into the water.

## **7. LOW MAINTENANCE ZONES**

A voluntary ten (10) foot low maintenance zone is strongly recommended, but not mandated, from any pond, stream, water course, lake, wetland or from the top of a seawall. A swale/berm system is recommended for installation at the landward edge of this low maintenance zone to capture and filter runoff. No mowed or cut vegetative material may be deposited or left remaining in this zone or deposited in the water. Care should be taken to prevent the over-spray of aquatic weed products in this zone.

## **8. FERTILIZER CONTENT AND APPLICATION RATES**

(a) Fertilizers applied to turf within Gilchrist County shall be applied in accordance with requirements and directions provided by Rule 5E-1.003, Florida Administrative Code.

(b) Fertilizer containing nitrogen shall not be applied before seeding or sodding a site, and shall not be applied for the first 30 days after seeding or sodding, except when hydro-seeding for temporary or permanent erosion control in an emergency situation (wildfire, etc.), or in accordance with the Stormwater Pollution Prevention Plan for that site.

(c) Nitrogen or phosphorus fertilizer shall not be applied to turf or landscape plants except as provided in (a) above for turf, or in UF/IFAS recommendations for landscape plants, vegetable gardens, and fruit trees and shrubs, unless a soil or tissue deficiency has been verified by an approved test.

## **9. APPLICATION PRACTICES**

a. Spreader deflector shields are required when fertilizing via rotary (broadcast)

spreaders. Deflectors must be positioned such that fertilizer granules are deflected away from all impervious surfaces, fertilizer-free zones and water bodies, including wetlands.

- b. Fertilizer shall not be applied, spilled, or otherwise deposited on any impervious surfaces.
- c. Any fertilizer applied, spilled, or deposited, either intentionally or accidentally, on any impervious surface shall be immediately and completely removed to the greatest extent practicable.
- 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.
- e. In no case shall fertilizer be washed, swept, or blown off impervious surfaces into stormwater drains, ditches, conveyances, or water bodies.

#### **10. MANAGEMENT OF GRASS CLIPPINGS AND VEGETATIVE MATTER**

In no case shall grass clippings, vegetative material, and/or vegetative debris 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 shall be immediately removed to the maximum extent practicable.

#### **11. EXEMPTIONS**

The provisions set forth above in this Ordinance shall not apply to:

- (a) bona fide farm operations as defined in the Florida Right to Farm Act, Section 823.14 Florida Statutes, as amended;
- (b) other properties not subject to or covered under the Florida Right to Farm Act that have pastures used for grazing livestock;
- (c) 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.

#### **12. TRAINING**

- (a) All commercial and institutional applicators of fertilizer within Gilchrist County, Florida shall abide by and 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 Department of Environmental Protection through the University of Florida Extension “*Florida-Friendly Landscaping™*” program, or an approved equivalent.
- (b) Private, non-commercial applicators are encouraged to follow the recommendations of the University of Florida IFAS *Florida Yards and Neighborhoods* program when applying fertilizers.



### **13. LICENSING OF COMMERCIAL APPLICATORS**

All commercial applicators of fertilizer within Gilchrist County, Florida shall 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 Fertilizer Applicator per 5E-14.117(18)F.A.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 prior to the business owner obtaining a Local Business Tax Certificate. Owners for any category of occupation which may apply any fertilizer to Turf and/or Landscape Plants shall provide proof of completion of the program to the Gilchrist County Administrator’s Office.

### **14. ENFORCEMENT**

A violation of this ordinance shall be punishable as set forth in Chapter 1, Section 1-8 of the Code of Ordinances of Gilchrist County, Florida, pursuant to General Penalty; Continuing Violations.

Funds generated by penalties imposed under this section shall be used by Gilchrist County, Florida for the administration and enforcement of section 403.9337, Florida Statutes, and the corresponding sections of this ordinance, and to further water conservation and nonpoint pollution prevention activities.

**Section 4. Inclusion in Code.** It is the intent of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Gilchrist County Code of Ordinances.

**Section 5. Severability.** If any section, sentence, clause, phrase or word of this Ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holding or invalidity shall not affect the remaining portions of this Ordinance; and it shall be construed to have been the Board’s intent to pass this Ordinance without such unconstitutional, invalid or inoperative part therein; and the remainder of this Ordinance, after exclusion of such part or parts shall be deemed and held to be valid, as if such parts had not been included herein; or if this Ordinance or any provisions thereof shall be held inapplicable to any person, groups of persons, property, kind of property, circumstances or set of circumstances, such holding shall not affect the applicability thereof to any such person, property or circumstances.

**Section 6. Filing with the Florida Department of State.** The Clerk shall be and is hereby directed to send a certified copy of this Ordinance to the Secretary of State for the State of Florida.

**Section 6. Effective Date.** This Ordinance shall take effect immediately upon receipt of official acknowledgement from the Department of State that this ordinance has been filed.

This Ordinance is passed this \_\_\_\_\_ day of \_\_\_\_\_, 2017, on Motion made by Commissioner \_\_\_\_\_; Seconded by Commissioner \_\_\_\_\_; on a vote of \_\_\_\_\_ to \_\_\_\_\_.

BOARD OF COUNTY COMMISSIONERS  
OF GILCHRIST COUNTY, FLORIDA

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D. Ray Harrison, Jr., Chairman

-SEAL-

ATTEST:

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Todd Newton, Clerk of the Circuit Court