



**CITY OF UMATILLA
AGENDA ITEM STAFF REPORT**

DATE: December 14, 2018

MEETING DATE: December 18, 2018

SUBJECT: Fertilizer Ordinance

ISSUE: Consideration of adoption of ordinance

BACKGROUND SUMMARY: At a recent Lake County League of Cities luncheon a program was presented on the county's adoption of an enhanced fertilizer ordinance which changed to their Land Development Regulations pertaining to fertilizers.

Changes included:

- Phosphorous & Nitrogen Summer Application Ban which bans application of phosphorous & nitrogen from June through September to address increased runoff potential during the rainy season
- Increasing the application setback from water bodies from 10' to 15' to provide additional buffer for fertilizer runoff and a voluntary low maintenance zone extended to 15'
- Slow release Nitrogen content requirement for 50% slow release content to address leaching potential

The city adopted Florida Friendly Landscaping requirements some years back. The revision by the county has applied more stringent requirements.

STAFF RECOMMENDATIONS: Determine if the Council wishes staff to present an ordinance revising the fertilizer requirements.

FISCAL IMPACTS: N/A

COUNCIL ACTION:

Reviewed by City Attorney	<input type="checkbox"/> Yes	<input type="checkbox"/> No	√N/A
Reviewed by City Engineer	<input type="checkbox"/> Yes	<input type="checkbox"/> No	√N/A

Staff Summary

The purpose of this ordinance is to amend Lake County Code, Appendix E, Land Development Regulations, Chapter VI, Section 6.13.00, entitled "Fertilizer Use." On April 18, 2017, the Lake County Board of County Commissioners adopted the Florida Department of Environmental Protection Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes and amended the Code to provide a new section entitled "Fertilizer Use". This ordinance amends Section 6.13.00 by restricting the application of certain fertilizers during the months of June through September; modifying the restriction on the application of fertilizer from ten (10) feet to fifteen (15) feet of any pond, lake, stream, canal, or other waterbody, including wetlands; and requiring fertilizer containing nitrogen applied during the months of October through May must contain a certain amount of slow release nitrogen.

Changes are shown as follows: Strikethrough for deletions and Underline for additions to existing Code sections. The notation "* * *" shall mean that all preceding or subsequent text remains unchanged (excluding any renumbering or relettering that might be needed).

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ORDINANCE 2017 - 55

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LAKE COUNTY, FLORIDA; AMENDING LAKE COUNTY CODE, APPENDIX E, LAND DEVELOPMENT REGULATIONS, SECTION 6.13.00, ENTITLED "FERTILIZER USE"; RESTRICTING THE TIMING OF APPLICATION AND CONTENT OF CERTAIN FERTILIZERS; MODIFYING APPLICATION PERMITTED FROM TEN (10) FEET TO FIFTEEN (15) FEET OF A WATERBODY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR FILING WITH THE DEPARTMENT OF STATE; AND PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, the Lake County Board of County Commissioners developed, enacted, and implemented an ordinance pursuant to the Model Ordinance for Florida-Friendly Use on Urban Landscapes contained in Section 403.9337, Florida Statutes; and

WHEREAS, the Board of County Commissioners seeks to amend the previously adopted ordinance concerning fertilizer use to provide additional restrictions and requirements.

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

Section 1. Recitals. The foregoing recitals are true and correct and incorporated herein.

Section 2. Amendment. Lake County Code, Appendix E, Land Development Regulations, Chapter VI, Section 6.13.00, entitled "Fertilizer Use" is amended to state as follows:

Chapter VI. Resource Protection Standards.

1 **6.13.00 Fertilizer Use.**

2
3 **6.13.01 General.**

4 **A. Legislative Findings.** As a result of impairment to the County's surface waters caused
5 by excessive nutrients, or, as a result of increasing levels of nitrogen in the surface and/or ground
6 water within the aquifers or springs, the County has determined that the use of fertilizers on lands
7 within Lake County has the potential for adverse effects on surface and/or ground water.
8 Accordingly, the County finds that management measures contained in the "*Florida-Friendly Best*
9 *Management Practices for Protection of Water Resources by the Green Industries*", as amended,
10 may be required by this ordinance.

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

25 **C. Scope of Application.** This Ordinance shall be applicable to and shall regulate any
26 and all Applicators of fertilizer and areas of Application of fertilizer within the unincorporated
27 portions of Lake County, Florida, unless such Applicator is specifically exempted under this
28 section from the regulatory provisions of this section. This Ordinance shall be prospective only,
29 and shall not impair any contracts existing before July 1, 2017.

30 **6.13.02 Definitions.** The following words, terms and phrases, when used in this section, will
31 have the meanings set forth below unless the context clearly indicates otherwise.

32 *Administrator* means the County Manager or designee who has the authority to administer
33 and enforce the provisions of this section.

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

36 *Applicator* means any Person who applies fertilizer on turf and/or landscape plants in
37 unincorporated Lake County, Florida.

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

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

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

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1 *Fertilizer* means any substance or mixture of substances that contains one or more
2 recognized plant nutrients and promotes plant growth, or controls soil acidity or alkalinity,
3 or provides other soil enrichment, or provides other corrective measures to the soil.

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

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

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

13 *Low Maintenance Zone* means an area a minimum of ~~ten (10)~~ fifteen (15) feet wide
14 adjacent to water courses which is planted and managed in order to minimize the need
15 for fertilization, watering, mowing, etc.

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

19 *Prohibited Application Period* means the time period during which a Flood Watch or
20 Warning, or a Tropical Storm Watch or Warning, or a Hurricane Watch or Warning is in effect
21 for any portion of Lake County, issued by the National Weather Service.

22 *Lake County Approved Best Management Practices Training Program* means a training
23 program approved per F.S. § 403.9338, as amended, or any more stringent requirements set
24 forth in this section, that includes the Florida Department of Environmental Protection's
25 *Florida-Friendly Best Management Practices for Protection of Water Resources by the Green*
26 *Industries*, 2008, as amended.

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

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

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

36 *Urban landscape* means pervious areas on residential, commercial, industrial,
37 institutional, highway rights-of-way, or other nonagricultural lands that are planted with turf
38 or horticultural plants.

39 **6.13.03 General Requirements.**

40 **A. Timing of Fertilizer Application.**

- 41 1. No Applicator shall apply Fertilizers containing nitrogen, and/or phosphorus, or both
42 to ~~Turf and/or~~ landscape plants during the Prohibited Application Period, or to
43 ~~s~~Saturated ~~s~~Soils.
44 2. Fertilizers containing nitrogen or phosphorus may not be applied to Turf from June
45 1 to and including September 30 of each year.
46 3. Fertilizers containing iron, manganese and other micronutrients (excluding nitrogen,
47 phosphorus, or both), commonly referred to as summer blends, may be applied to Turf

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1 from June 1 to and including September 30 of each year as recommended by Florida
2 Yards & Neighborhood/Florida Friendly Landscape Program.

3 B. Fertilizer Free Zones. Fertilizer shall not be applied within fifteen (15)~~ten (10)~~ feet of
4 any pond, stream, watercourse, lake, canal, or wetland as defined in Chapter 62-340,
5 F.A.C., as amended, or from the top of a seawall, ~~unless a deflector shield, drop spreader,~~
6 ~~or liquid applicator with a visible and sharply defined edge, is used, in which case a~~
7 ~~minimum of three (3) feet shall be maintained.~~ Newly planted (Turf and/or landscape
8 plants may be fertilized in this zone only for a sixty (60) day period beginning thirty (30)
9 days after planting if need to allow the plants to become well established. Caution shall be
10 used to prevent direct deposition of nutrients into the water.

11 C. Low Maintenance Zones. A voluntary ~~ten (10)~~fifteen (15) foot low maintenance zone is
12 strongly recommended, but not mandated, from any pond, stream, water course, lake,
13 wetland or from the top of a seawall. If more stringent ~~Lake County Code~~ regulations
14 apply, this provision does not relieve the requirement to adhere to the more stringent
15 regulations. No mowed or cut vegetative material may be deposited or left remaining
16 in this zone or deposited in the water. Care shall be taken to prevent the over-spray of
17 aquatic weed products in this zone.

18 D. Fertilizer Content and Application Rates.

19 1. Fertilizers applied to ~~Turf~~ within unincorporated Lake County shall be applied in
20 accordance with requirements and directions provided by Section 5E-1.003, FA.C., as
21 amended.

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

27 3. Fertilizers containing Nitrogen or phosphorus fertilizer shall not be applied to Turf or
28 landscape plants except as provided in subsection (1) above for Turf, or in UF/IFAS
29 recommendations for landscape plants, vegetable gardens, and fruit trees and shrubs.
30 Furthermore, fertilizers containing phosphorus shall not be applied to Turf unless a soil
31 or tissue deficiency has been verified by an approved test.

32 4. Fertilizers containing nitrogen applied to Turf or landscaping plants during the period
33 of October 1 through May 31 must contain no less than fifty percent (50%) slow release
34 nitrogen.

35 E. Application Practices.

36 1. Spreader deflector shields are required when fertilizing via rotary (broadcast)
37 spreaders. Deflectors must be positioned such that Fertilizer granules are deflected
38 away from all impervious surfaces, fertilizer-free zones and water bodies, including
39 wetlands.

40 2. Fertilizer shall not be applied, spilled, or otherwise deposited on any impervious
41 surfaces.

42 3. Any Fertilizer applied, spilled, or deposited, either intentionally or accidentally, on any
43 impervious surface shall be immediately and completely removed to the greatest extent
44 practicable.

45 4. Fertilizer released on an impervious surface must be immediately contained and either
46 legally applied to Turf or any other legal site, or returned to the original or other

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- 1 appropriate container.
2 5. In no case shall Fertilizer be washed, swept, or blown off impervious surfaces into
3 stormwater drains, ditches, conveyances, or water bodies.
- 4 F. Management of Grass Clipping and Vegetative Matter. In no case shall grass clippings,
5 vegetative material, and/or vegetative debris be washed, swept, or blown off into
6 stormwater drains, ditches, conveyances, water bodies, wetlands, or sidewalks or
7 roadways. Any material that is accidentally so deposited shall be immediately removed
8 to the maximum extent practicable.
- 9 G. Exemptions. The provisions set forth above in this Ordinance shall not apply to:
- 10 1. Bona fide farm operations as defined in the Florida Right to Farm Act, F.S. §
11 823.14, as amended;
12 2. Other properties not subject to or covered under the subsection 1 above that have
13 pastures used for grazing livestock;
14 3. Any lands used for bona fide scientific research, including, but not limited to, research
15 on the effects of fertilizer use on urban stormwater, water quality, agronomics, or
16 horticulture; and
17 4. Golf courses, athletic fields and Turf managed for active recreation, whose owners
18 implement best management practices as described in Section 5E-1.003(2)(d), F.A.C.
19 entitled "Fertilizers Labeled, for Sports Turf at Golf Courses, Parks and Athletic
20 Fields", as amended.

21 **6.13.04 Training.**

- 22 A. All commercial and institutional applicators of Fertilizer within the unincorporated area of
23 Lake County shall abide by and successfully complete the training program in the "*Florida
24 Friendly Best Management Practices for Protection of Water Resources by the Green
25 Industries*" offered by the Florida Department of Environmental Protection through the
26 University of Florida Extension "*Florida-Friendly Landscaping™*" program, or an
27 approved equivalent.
- 28 B. Private, non-commercial applicators are encouraged to follow the recommendations of the
29 University of Florida IFAS *Florida Yards and Neighborhoods* program when applying
30 Fertilizers.

31 **6.13.05 Licensing of Commercial Applications.** All commercial applicators of Fertilizer
32 within the unincorporated area of Lake County shall have and carry in their possession at all times
33 when applying fertilizer, evidence of certification by the Florida Department of Agriculture and
34 Consumer Services as a Commercial Fertilizer Applicator per Section 5E-14.117(18), F.A.C. All
35 businesses applying Fertilizer to Turf and/or landscape plants (including but not limited to
36 residential lawns, golf courses, commercial properties, and multi-family and condominium
37 properties) must ensure that at least one employee has a "*Florida-Friendly Best Management
38 Practices for Protection of Water Resources by the Green Industries*" training certificate.

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40 **Section 3. Inclusion in Code.** It is the intent of the Board of County Commissioners that
41 the provisions of this Ordinance shall become and be made a part of the Lake County Code.
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43 **Section 4. Severability.** If any section, sentence, clause, phrase or word of this Ordinance is
44 for any reason held or declared to be unconstitutional, inoperative or void, such holding or invalidity shall
45 not affect the remaining portions of this Ordinance; and it shall be construed to have been the
46 Commissioner's intent to pass this Ordinance without such unconstitutional, invalid or inoperative part

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1 therein; and the remainder of this Ordinance, after the exclusion of such part or parts shall be deemed and
2 held to be valid, as if such parts had not been included herein; or if this Ordinance or any provisions thereof
3 shall be held inapplicable to any person, groups of persons, property, kind of property, circumstances or set
4 of circumstances, such holding shall not affect the applicability thereof to any other person, property or
5 circumstances.
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7 **Section 5. Filing with the Department of State.** The Clerk shall be and is hereby directed
8 forthwith to send an electronic copy of this Ordinance to the Secretary of State for the State of Florida in
9 accordance with Section 125.66, Florida Statutes.
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11 **Section 6. Effective Date.** This ordinance shall become effective as provided for by law
12 (“Effective Date”); provided, however, that no enforcement action shall be taken, nor penalties or fines
13 shall be imposed for violations of this ordinance for a period of one (1) year from the Effective Date. After
14 this initial grace period of one (1) year, any violation of the provisions of this Ordinance may be subject to
15 the Code Enforcement proceedings outlined in Chapter 8, Lake County Code or the provision for injunctive
16 relief provided in Section 1-8, Lake County Code.
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18 ENACTED this day of 21st day of November, 2017.
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20 FILED with the Secretary of State the 6 day of December, 2017.
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New City Clerk of the
Board of County Commissioners of
Lake County, Florida

BOARD OF COUNTY COMMISSIONERS
OF LAKE COUNTY, FLORIDA

Handwritten signature of Timothy T. Sullivan.

Timothy T. Sullivan, Chairman

This 4 day of Dec., 2017.

Approved as to form and legality:

mmarsl
Melanie Marsh, County Attorney