



## CITY OF UMATILLA AGENDA ITEM STAFF REPORT

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DATE: January 11, 2019

MEETING DATE: January 15, 2019

SUBJECT: Ordinance 2019-A, First Reading

ISSUE: Application and Use of Fertilizers

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**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

It was determined the best way to incorporate these rules within the city's Land Development Regulations was to revise Chapter 17 "Environmental Protection" with the addition of Section 39 "Application and Use of Fertilizers".

Council's direction was to adopt an ordinance in line with the county's restrictions. The Lake County ordinance provides for a one (1) year period after the effective date of the adoption of the ordinance during which no enforcement action shall be taken nor the imposition of fines or penalties. After the grace period violations may be subject to Code Enforcement proceedings as outlined in the Code of Ordinances Chapter 34, Section 34.

**STAFF RECOMMENDATIONS:** Adoption of Ordinance 2019 – A Application and Use of Fertilizers, first reading.

**FISCAL IMPACTS:** N/A

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**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

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**ORDINANCE 2019 - A**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UMATILLA, LAKE COUNTY, FLORIDA; REVISING CHAPTER 17 “ENVIRONMENTAL PROTECTION” OF THE CITY OF UMATILLA LAND DEVELOPMENT REGULATIONS; CREATING SECTION 39, ENTITLED “APPLICATION AND USE OF FERTILIZERS”; 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 LAND DEVELOPMENT REGULATIONS; 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 the City of Umatilla are critical to the environmental, economic and recreational prosperity of the City of Umatilla and its residents; and

**WHEREAS**, the City of Umatilla 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 Umatilla City Council seeks to amend the previously adopted ordinance concerning fertilizer, use to provide additional restrictions and requirements.

**NOW THEREFORE**, be it ordained by the Umatilla City Council, as follows:

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

**Section 2.     Amendment.** The City of Umatilla Land Development Regulations Chapter 17 Environmental Protection, is amended to include **SECTION 39** entitled “**APPLICATION AND USE OF FERTILIZERS**” attached herewith as Exhibit A.

**Section 3.     Inclusion in Land Development Regulations.** It is the intent of the Umatilla City Council that provisions of this Ordinance shall become and be made part of the City of Umatilla Land Development Regulations.

**Section 4.     Severability.** If any section, 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 Council’s intent to pass this Ordinance without such unconstitutional, invalid or inoperative part therein; and the remainder of this Ordinance, after the 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 or persons, property, kind of property, circumstances or set of circumstances, such holding shall not affect the applicability thereof to any other person, property or circumstances.

**Section 5. Filing with the Department of State.** The Clerk shall be and is hereby directed forthwith to send an electronic copy of this Ordinance to the Secretary of State for the State of Florida in accordance with Section 125.66, Florida Statutes.

**Section 6. Effective Date.** This ordinance shall become effective as provided for by law (“Effective Date”); provided however that no enforcement action shall be taken, nor penalties or fines shall be imposed for violations of this Ordinance for a period of one (1) year from the Effective Date. After this initial grace period of one (1) year, any violation of the provisions of this Ordinance may be subject to the Code Enforcement proceedings outlined in Chapter 34, Section 34, City of Umatilla Code of Ordinances.

**ENACTED** this \_\_\_\_\_ day of February, 2019.

**FILED** with the Secretary of State the \_\_\_\_\_ day of February, 2019.

\_\_\_\_\_  
Katherine Adams  
Mayor, City of Umatilla

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Karen H. Howard  
City Clerk

\_\_\_\_\_  
Kevin Stone  
City Attorney

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2  
3 **Ordinance 2019-A Attachment A**

4  
5 **CITY OF UMATILLA LAND DEVELOPMENT REGULATIONS**  
6 **CHAPTER 17**

7  
8 **ENVIRONMENTAL PROTECTION**

9  
10  
11 **SECTION 39: APPLICATION AND USE OF FERTILIZERS**

- 12 a) Legislative Findings. As a result of impairment to the City's surface waters  
13 caused by excessive nutrients, or, as a result of increasing levels of nitrogen in the  
14 surface and/or ground water within the aquifers or springs, the City has  
15 determined that the use of fertilizers on lands within the City of Umatilla has the  
16 potential for adverse effects on surface and/or ground water. Accordingly, the  
17 City finds that management measures contained in the "Florida-Friendly Best  
18 Management Practices/or Protection of Water Resources by the Green  
19 Industries", as amended, may be required by this ordinance.
- 20
- 21 b) Purpose and intent. This section regulates the proper use of fertilizers by any  
22 applicator; requires proper training of Commercial and Institutional Fertilizer  
23 Applicators; establishes training and licensing requirements; establishes a  
24 Prohibited Application Period; specifies allowable fertilizer application rates and  
25 methods, fertilizer-free zones, low maintenance zones, and exemptions. The  
26 Ordinance requires the use of Best Management Practices that provide specific  
27 management guidelines to minimize negative secondary and cumulative  
28 environmental effects associated with the misuse of fertilizers. These secondary  
29 and cumulative effects have been observed in and on the City of Umatilla's  
30 natural and constructed stormwater conveyances, rivers, creeks, canals, springs,  
31 lakes, estuaries and other water bodies. Collectively, these water bodies are an  
32 asset critical to the environmental, recreational, cultural and economic well-being  
33 of Umatilla residents and the health of the public. Overgrowth of algae and  
34 vegetation hinder the effectiveness of flood attenuation provided by natural and  
35 constructed stormwater conveyances. Regulation of nutrients, including both  
36 phosphorous and nitrogen contained in fertilizer, will help improve and maintain  
37 water and habitat quality.
- 38
- 39 c) Scope of Application. This Ordinance shall be applicable to and shall regulate any  
40 and all Applicators of fertilizer and areas of Application of fertilizer within the  
41 incorporated portions of the City of Umatilla, Lake County, Florida, unless such  
42 Applicator is specifically exempted under this section from the regulatory  
43 provisions of this section. This ordinance shall be prospective only and shall not  
44 impair any contracts existing before adoption of this ordinance.
- 45

46 d) Definitions. The following words, terms and phrases, when used in this section,  
47 will have the meaning set forth below unless the context clearly indicates  
48 otherwise.

49  
50 Administrator means the City Manager or designee who has the authority to  
51 administer and enforce the provisions of this section.

52 Application or Apply means the actual physical deposit of fertilizer to turf or  
53 landscape plants.

54 Applicator means any Person who applies fertilizer on turf and/or landscape  
55 plants in the City of Umatilla, Lake County, Florida.

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

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

64 Fertilize, Fertilizing, Fertilization means the act of applying fertilizer to turf,  
65 specialized turf, or landscape plants.

66 Fertilizer means any substance or mixture of substances, that contains one of  
67 more recognized plant nutrients and promotes plant growth, or controls soil acidity or  
68 alkalinity, or provides either soil enrichment, or provides other collective measures to the  
69 soil.

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

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

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

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

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

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

90 City of Umatilla Approved Best Management Practices Training Program means  
91 a training program approved per F.S.§ 403.9338, as amended, or any more stringent  
92 requirements set forth in this section, that includes the Florida Department of  
93 Environmental Protection's Florida-Friendly Best Management Practices/or Protection  
94 Water Resources by the Green Industries, 2008, as amended.

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

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

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

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

108  
109 e) General Requirements.

110 1. Timing of Fertilizer Application.

- 111 A. No Applicator shall apply Fertilizers containing nitrogen or  
112 phosphorus or both to turf or landscape plants during the Prohibited  
113 Application Period, or to saturated soils.  
114 B. Fertilizers containing nitrogen or phosphorus may not be applied to  
115 Turf from June 1<sup>st</sup> to and including September 30<sup>th</sup> of each year.  
116 C. Fertilizers containing iron, manganese and other micronutrients  
117 (excluding nitrogen, phosphorus, or both), commonly referred to as  
118 summer blends, may be applied to Turf  
119 D. From June 1<sup>st</sup> to and including September 30<sup>th</sup> of each year as  
120 recommended by Florida Yards & Neighborhood/Florida Friendly  
121 Landscape Program.

122  
123 2. Fertilizer Free Zones.

- 124 A. Fertilizer shall not be applied within fifteen (15) feet of any pond,  
125 stream, watercourse, lake, canal, or wetland as defined in Chapter 62-  
126 340, F.A.C., as amended, or from the top of a seawall, unless a  
127 deflector shield, drop spreader, or liquid applicator with a visible and  
128 sharply defined edge is used, in which case a minimum of three (3)  
129 feet shall be maintained. Newly planted (turf and/or landscape plants)  
130 may be fertilized in this zone only for a sixty (60) day period  
131 beginning thirty (30) days after planting if need to allow the plants to  
132 become well established. Caution shall be used to prevent direct  
133 deposition of nutrients into the water.

- 135           3. Low Maintenance Zones.  
136           A. A voluntary fifteen (15) foot low maintenance zone is strongly  
137           recommended, but not mandated, from any pond, stream, water  
138           course, lake, wetland or from the top of a seawall. If more stringent  
139           regulations apply, this provision does not relieve the requirement to  
140           adhere to the more stringent regulations. No mowed or cut vegetative  
141           material may be deposited or left remaining in this zone or deposited  
142           in the water. Care shall be taken to prevent the over-spray of aquatic  
143           weed products in this zone.  
144  
145           4. Fertilizer Content and Application Rates.  
146           A. Fertilizers applied to turf within incorporated City of Umatilla shall be  
147           applied in accordance with requirements and directions provided by  
148           Section 5E-1 .003, F.A.C, as amended.  
149           B. Fertilizers containing nitrogen shall not be applied before seeding or  
150           sodding a site, and shall not be applied for the first thirty (30) days  
151           after seeding or sodding, except when hydro-seeding for temporary or  
152           permanent erosion control in an emergency situation (wildfire, etc.), or  
153           in accordance with the Stormwater Pollution Prevention Plan for that  
154           site.  
155           C. Fertilizers containing nitrogen or phosphorus shall not be applied to  
156           Turf or landscape plants except as provided in subsection (l) above for  
157           Turf, or in UF/IFAS recommendations for landscape plants, vegetable  
158           gardens, and fruit trees and shrubs. Furthermore, fertilizers containing  
159           phosphorus shall not be applied to Turf unless a soil or issue  
160           deficiency has been verified by an approved test.  
161           D. Fertilizers containing nitrogen applied to Turf or landscaping plants  
162           during the period of October 1<sup>st</sup> through May 31<sup>st</sup> must contain no less  
163           than fifty percent (50%) slow release nitrogen.  
164           5. Application Practices.  
165           A. Spreader deflector shields are required when fertilizing via rotary  
166           (broadcast) spreaders. Deflectors must be positioned such that  
167           Fertilizer granules are deflected away from all impervious surfaces,  
168           fertilizer-free zones and water bodies, including wetlands.  
169           B. Fertilizer shall not be applied, spilled, or otherwise deposited on any  
170           impervious surfaces.  
171           C. Any Fertilizer applied, spilled, or deposited, either intentionally or  
172           accidentally, on any impervious surface shall be immediately and  
173           completely removed to the greatest extent practicable.  
174           D. Fertilizer released on an impervious surface must be immediately  
175           contained and either legally applied to Turf or any other legal site, or  
176           returned to the original or other appropriate container.  
177           E. In no case shall Fertilizer be washed, swept, or blown off impervious  
178           surfaces into stormwater drains, ditches, conveyances, or water  
179           bodies.



- 180           6. Management of Grass Clipping and Vegetative Matter.
- 181           A. In no case shall grass clippings, vegetative material, and/or vegetative
- 182           debris be washed, swept, or blown off into stormwater drains, ditches,
- 183           conveyances, water bodies, wetlands, or sidewalks or roadways. Any
- 184           material that is accidentally so deposited shall be immediately
- 185           removed to the maximum extent practicable.
- 186
- 187           f. Exemptions. The provisions set forth above in this Ordinance shall not
- 188           apply to:
- 189           1. Bona fide farm operations as defined in the Florida Right to Farm Act,
- 190           F.S. § 823.14, as amended;
- 191           2. Other properties not subject to or covered under the subsection I above
- 192           that have pastures used for grazing livestock;
- 193           3. Any lands used for bona fide scientific research, including, but not limited
- 194           to, research on the effects of fertilizer use on urban stormwater, water
- 195           quality, agronomics, or horticulture; and
- 196           4. Golf courses, athletic fields and Turf managed for active recreation, whose
- 197           owners implement best management practices as described in Section 5E-
- 198           L003(2)(d), F.A.C. entitled "Fertilizers Labeled, for Sports Turf at Golf
- 199           Courses, Parks and Athletic Fields", as amended.
- 200
- 201           g. Training
- 202           1. All commercial and institutional applicators of Fertilizer within the
- 203           incorporated area of the City of Umatilla shall abide by and successfully
- 204           complete the training program in the "Florida Best Management Practices
- 205           for Protection of Water Resources by the Green Industries" offered by the
- 206           Florida Department of Environmental Protection through the University of
- 207           Florida Extension "Florida Friendly Landscaping" program, or an
- 208           approved equivalent.
- 209           2. Private, non-commercial applicators are encouraged to follow the
- 210           recommendations of the University of Florida IFAS Florida Yards and
- 211           Neighborhoods program when applying fertilizers.
- 212
- 213           h. Licensing of Commercial Applications.
- 214           1. All commercial applicators of Fertilizer within the incorporated area of the
- 215           City of Umatilla shall have and carry in their possession at all times when
- 216           applying fertilizer, evidence of certification by the Florida Department of
- 217           Agriculture and Consumer Services as a Commercial Fertilizer Applicator
- 218           per Section 5E-14.117(18), F.A.C. All businesses applying Fertilizer to
- 219           Turf and/or landscape plants (including but not limited to residential
- 220           lawns, golf courses, commercial properties, and multi-family and
- 221           condominium properties) must ensure that at least one employee has a
- 222           "Florida-Friendly Best Management Practices for Protection of Water
- 223           Resources by the Green Industries" training certificate.
- 224