

ORDINANCE NO. 11-21

AN ORDINANCE OF MANATEE COUNTY, FLORIDA, REGULATING LANDSCAPE MAINTENANCE PRACTICES AND USE OF FERTILIZERS; CREATING CHAPTER 2-35 OF THE MANATEE COUNTY CODE OF ORDINANCES ENTITLED LANDSCAPE MAINTENANCE AND FERTILIZER REGULATION; PROVIDING FINDINGS OF FACT; PROVIDING PURPOSE AND INTENT; PROVIDING DEFINITIONS; PROVIDING FOR APPLICABILITY; PROVIDING WEATHER AND SEASONAL RESTRICTIONS; PROVIDING FOR FERTILIZER CONTENT AND APPLICATION RATE; PROVIDING FOR IMPERVIOUS SURFACES AND MODE OF APPLICATION; PROVIDING FOR FERTILIZER-FREE ZONES; PROVIDING FOR MANAGEMENT OF GRASS CLIPPINGS AND VEGETATIVE MATERIAL; PROVIDING EXEMPTIONS; PROVIDING FOR CERTIFICATION AND TRAINING; PROVIDING FOR ENFORCEMENT; PROVIDING RECOMMENDATIONS; PROVIDING TERRITORY EMBRACED; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING EFFECTIVE DATES.

WHEREAS, the Florida Department of Environmental Protection has identified specific water bodies in Manatee County as impaired as a result of excess nutrients under the Florida Impaired Waters Rule (Chapter 62-303, Florida Administrative Code); and

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

WHEREAS, surface water and baseflow runoff containing excess nutrients from residential neighborhoods, commercial centers, industrial areas, and other lands of Manatee County enter into natural and artificial stormwater and drainage conveyances and natural water bodies in Manatee County; and

WHEREAS, nutrients are commonly found in various forms as a fertilizer for turf and landscape application and, if applied improperly, may contribute to pollution in natural water bodies; and

WHEREAS, it is recognized that properties irrigating with reclaimed water require less

fertilization; 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 detrimental effects of nutrient-laden runoff are magnified in a coastal community, such as Manatee County, due to the proximity of stormwater and drainage conveyances to coastal and estuarine waters; and

WHEREAS, the quality of the County's streams, lakes, and rivers, as well as Tampa Bay and the Gulf of Mexico is critical to environmental, economic, and recreational prosperity and to the health, safety, and welfare of the citizens of Manatee County; and

WHEREAS, Manatee County is developed with a variety of urban land uses, where maintained landscapes have the potential to contribute to the fertilizer-based pollutant load; and

WHEREAS, the Manatee County 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 Board of County Commissioners of Manatee County finds that limiting the use of nitrogen and phosphorous based fertilizer is in the public interest since it reduces the potential for nutrient-laden runoff into Manatee County's freshwater, coastal and estuarine waters, thereby improving the quality of the County's waters and reducing the need to expend scarce public resources on water quality improvement projects; and

WHEREAS, this ordinance is part of a comprehensive effort by Manatee County to reduce non-point sources of nutrient pollution through implementation and enforcement of policies and regulations regarding stormwater management, water conservation, conversion from septic systems to central sewage treatment, public education, and development standards as set forth in the Manatee County Land Development Code and supported by the Manatee County Comprehensive Plan; and

WHEREAS, the Board of County Commissioners declares that, as part of the comprehensive program to address non-point sources of nutrient pollution, which is science-based, and economically and technically feasible, it is necessary to impose additional or more stringent standards than those in the Florida Department of Environmental Protection's Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes (August 2010) in order to adequately address urban fertilizer contributions to non-point source nutrient loading to local water bodies; and

WHEREAS, in the process of adoption of this ordinance, the Board of County Commissioners has considered all relevant scientific information, including input from the Department of Environmental Protection, the Department of Agriculture and Consumer Services, and the University of Florida Institute of Food and Agricultural Sciences, to the extent provided, on the need for additional or more stringent provisions to address fertilizer as a contributor to water quality degradation, and such information has been made part of the public record at the public hearing on this ordinance; and

WHEREAS, this ordinance is countywide to ensure consistency but will be enforced at the jurisdictional level.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA:

Section 1. Chapter 2-35 of Manatee County Code of Ordinances is hereby created to read as follows:

Chapter 2-35 Landscape Maintenance and Fertilizer Regulation

Sec. 2-35-1. Findings of fact.

As a result of adverse impacts to Manatee County waters caused by excessive nutrients resulting from improper landscape maintenance practices and the incorrect or unnecessary application of fertilizers containing phosphorus and/or nitrogen, the Manatee County Board of County Commissioners has determined that the lands and waters of Manatee County are at

particularly high risk for adverse effects to surface and ground water from such fertilizer containing phosphorus and/or nitrogen, particularly when not applied in accordance with best management practices established by the Florida Department of Environmental Protection (FDEP), the Florida Department of Agriculture and Consumer Services (DACCS), and the University of Florida Institute of Food and Agricultural Sciences (UF/IFAS).

Sec. 2-35-2. Purpose and intent.

This chapter regulates the proper use of fertilizers by any applicator and requires proper training of commercial and institutional fertilizer applicators and landscape maintenance companies by establishing a restricted season for fertilizer application, fertilizer-free zones, low-maintenance zones, exemptions, training, and certification requirements. This chapter 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 and improper landscape maintenance practices. These secondary and cumulative effects have been observed in and on Manatee County's natural and artificial stormwater and drainage conveyances, rivers, lakes, canals, estuaries, interior freshwater wetlands, and Tampa Bay. Collectively, these water bodies are an asset critical to the environmental, recreational, cultural and economic well-being of Manatee County residents and the health of the public. Overgrowth of algae and vegetation hinder the effectiveness of flood attenuation provided by natural and artificial stormwater and drainage conveyances. Regulation of nutrients, including both phosphorus and nitrogen contained in fertilizer, will help improve and maintain water and habitat quality.

Sec. 2-35-3. Definitions.

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

- (a) Application or apply means the actual physical deposit of fertilizer to turf or

landscape plants.

- (b) Applicator means any person who applies fertilizer on turf and/or landscape plants in the county.
- (c) Approved best management practices (BMP) training program means a training program approved by the county administrator that includes, at a minimum, the BMPs associated with proper mowing, trimming, irrigation, and landscape debris management, the most current version of the "Florida Green Industries Best Management Practices for Protection of Water Resources in Florida, December 2008", as updated, and the more stringent requirements set forth in this chapter.
- (d) Best management practices or BMP mean turf and landscape practices which minimize the negative environmental impacts of installation and maintenance of landscapes.
- (e) Board means the board of county commissioners of Manatee County, Florida.
- (f) Code enforcement officer or code inspector means any designated employee or agent of the county whose duty it is to enforce county codes and ordinances.
- (g) Commercial fertilizer applicator means any person who applies fertilizer on turf and/or landscape plants in the county in exchange for money, goods, services, or other valuable consideration.
- (h) County means Manatee County, Florida.
- (i) County administrator means the county administrator or the county administrator's designee responsible for administration and implementation of the provisions of this chapter.
- (j) Fertilize, fertilizing, or fertilization means the act of applying fertilizer to turf, specialized turf, or landscape plants.
- (k) Fertilizer means any substance or mixture of substances that contains one (1) 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.

- (l) Granular means composed of small grains or particles.
- (m) 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.
- (n) 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 stormwater. It includes roofed areas and surfaces such as compacted sand, limerock, or clay, as well as conventionally surfaced streets, sidewalks, parking lots, and other similar surfaces.
- (o) Landscape plant means any native or exotic tree, shrub, or groundcover (excluding turf).
- (p) Landscape maintenance means activities carried out to manage and maintain landscape plants, including but not limited to mowing, edging, and trimming.
- (q) Low-maintenance zone means an area a minimum of six (6) feet wide adjacent to water courses which is planted with non-turf grass vegetation and managed in order to minimize the need for fertilization, watering, and mowing.
- (r) Pasture means land used for livestock grazing that is managed to provide feed value.
- (s) Person means any human being, business, corporation, limited liability company, partnership, limited partnership, association, club, organization, and/or any group of people acting as an organized entity.

- (t) Restricted season means June 1 through September 30.
- (u) Site supervisor means the direct supervisor of landscape maintenance personnel.
- (v) 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.
- (w) Specialized turf means grass used for athletic fields, golf course practice and play areas, and other similar activities.
- (x) Specialized turf manager means a person responsible for fertilizing or directing the fertilization of specialized turf.
- (y) Surface water means fresh, brackish, saline or tidal waters, including but not limited to bays, rivers, lakes, streams, wetlands, springs, impoundments, as well as canals and other artificial water bodies.
- (z) Turf, sod, or lawn means a piece of grass-covered soil held together by the roots of the grass.
- (aa) Vegetable garden means an area dedicated to the cultivation of edible plants.

Sec. 2-35-4. Applicability.

This chapter shall be applicable to and shall regulate any and all applicators of fertilizer, areas of application of fertilizer, and landscape maintenance activities within the county, unless such applicator or activity is specifically exempted by the terms of this chapter from the regulatory provisions of this chapter.

Sec. 2-35-5. Weather and seasonal restrictions.

- (a) No applicator shall apply fertilizers containing nitrogen and/or phosphorus to turf and/or landscape plants during the restricted season from June 1 through September 30.
- (b) No applicator shall apply fertilizers containing nitrogen and/or phosphorous to turf

and/or landscape plants during a period for which the National Weather Service has issued any of the following advisories for any portion of the county: a severe thunderstorm warning or watch, flood warning or watch, tropical storm warning or watch, hurricane warning or watch, or if rain greater than or equal to two (2) inches in a twenty-four (24) hour period is forecasted.

Sec. 2-35-6. Fertilizer content and application rate.

(a) Fertilizers shall be applied to turf and/or landscape plants at the lowest recommended rate according to the "Florida Green Industries Best Management Practices for Protection of Water Resources in Florida, December 2008", as updated, with no more than four (4) pounds of nitrogen per one thousand (1,000) square feet applied in any calendar year.

(b) No fertilizer containing phosphorus shall be applied to turf and/or landscape plants in the county, except where a phosphorous 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 a soil analysis test showing a phosphorous deficiency and who wishes to apply phosphorous to turf and/or landscape plants shall provide a copy of the test results to the county administrator prior to the application of phosphorous.

(c) Nitrogen fertilizer shall not be applied on newly established turf or new landscape plants for the first thirty (30) days.

(d) Granular fertilizers containing nitrogen applied to turf and/or landscape plants within the county shall contain no less than fifty percent (50%) slow release nitrogen per guaranteed analysis label.

(e) Liquid fertilizers containing nitrogen applied to turf and/or landscape plants within the county shall not be applied at a rate that exceeds 0.5 pounds per one thousand (1,000) square feet per application.

Sec. 2-35-7. Impervious surfaces and mode of application.

(a) Fertilizer shall not be applied, spilled, or otherwise deposited on any impervious surfaces. 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. 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, surface waters, or roadways.

(b) Spreader deflector shields are required when applying fertilizer by use of any broadcast or rotary spreaders. Deflector shields must be positioned such that fertilizer granules are deflected away from all impervious surfaces and surface waters.

Sec. 2-35-8. Fertilizer-free zones.

Fertilizer shall not be applied within ten (10) feet from the top of bank of any surface water, landward edge of the top of a seawall, designated wetland, or wetland as defined by FDEP (Chapter 62-340, Florida Administrative Code, as may be amended or superseded).

Sec. 2-35-9. Management of grass clippings and vegetative material.

Grass clippings, vegetative material, and/or vegetative debris shall not, either intentionally or accidentally, be washed, swept, blown, or otherwise deposited into stormwater drains, ditches, drainage conveyances, surface waters, or roadways.

Sec. 2-35-10. Exemptions.

The provisions set forth in subsection 2-35-5(a) and section 2-35-6 of this chapter shall not apply to the following:

- (a) Golf courses. For all golf courses, the provisions of the FDEP document, entitled "BMP's for the Enhancement of Environmental Quality on Florida Golf Courses, January 2007", as updated, are required and shall be followed when applying fertilizer to golf courses.
- (b) Specialized turf managers are required to follow the provisions of the "Florida Green Industries Best Management Practices for Protection of Water Resources in Florida, December 2008", as updated, for turf and landscape plants.

- (c) Bona fide farm operations as defined in the Florida Right to Farm Act, Section 823.14, Florida Statutes.
- (d) Other properties not subject to or covered under the Florida Right to Farm Act that have pastures used for grazing livestock.
- (e) Vegetable gardens, owned by individual property owners or a community, provided that fertilizer application rates do not exceed UF/IFAS recommendations according to SP103 Florida Vegetable Gardening Guide, December 2008, as updated.
- (f) Yard waste compost, mulches, or other similar materials that are primarily organic in nature and are applied to improve the physical condition of the soil.
- (g) Tree trunk injection fertilization treatments that are performed by a certified arborist.
- (h) Fertilizer made or produced by the county from sewage.

Sec. 2-35-11. Certification and training.

(a) All commercial and institutional applicators within the county shall obtain the limited certification for urban landscape fertilizer application provided for under Section 482.1562, Florida Statutes, within three hundred sixty-five (365) days of adoption of this chapter, or within ninety (90) days of initial employment, whichever occurs later. Applicators are required to keep a copy of such certificate with them during application activities and shall present the certificate to any authorized official of the county, upon request.

(b) All site supervisors and managers of professional landscape maintenance companies, as well as government and institutional landscape supervisors, shall abide by and successfully complete an approved best management practices training program within five hundred forty-five (545) days of adoption of this chapter. Upon successful completion, a certificate of completion will be provided. Landscape maintenance staff are required to keep a copy of such certificate with them during landscape maintenance activities and shall present the

certificate to any authorized official of the county, upon request.

(c) Employees of lawn and landscape maintenance companies who are not site supervisors, managers or clerical personnel shall also be trained in BMPs through an approved best management practices training program or by the company or a contractor of the company. The training shall also include the more stringent requirements set forth in sections 2-35-3 through 2-35-12 of this chapter. Training may be provided by a certified site supervisor or manager employed by the company. Training shall be required of all personnel of such companies within five hundred forty-five (545) days of adoption of this chapter, or within ninety (90) days of initial employment, whichever occurs later. Prior to the successful completion of said program, each employee shall work under the direct physical supervision of a certified landscape maintenance employee. Landscape maintenance companies shall maintain written records of compliance with this provision and shall present training records to any authorized official of the county, upon request. Certifications issued to employees of lawn and landscape maintenance companies by other Florida counties and cities with equivalent approved best management practices training program requirements will be recognized by the county as meeting the certification and training requirements of this subsection.

(d) All commercial and institutional applicators, site supervisors and managers of professional landscape maintenance companies, government and institutional landscape supervisors, and any employee of a lawn and landscape maintenance company shall abide by best management practices for which they have been trained or certified, as well as the provisions of this chapter.

(e) A vehicle decal issued by the county indicating that the company is in compliance with the training and certification requirements of this section shall be affixed and maintained on the exterior of all vehicles and/or trailers used by the company in connection with landscape maintenance activities and/or the application of fertilizer within the area regulated by this chapter. The vehicle and trailer decals shall be provided by the county upon submittal of

demonstration of compliance by the company with the certification and training requirements of this section.

Sec. 2-35-12. Enforcement.

(a) Violations of this chapter may be prosecuted and punished as provided in Section 125.69, Florida Statutes. Each day any violation exists shall constitute a separate offense.

(b) This chapter may be enforced in accordance with Chapter 162, Florida Statutes, and Section 2-2-25 of the Manatee County Code of Ordinances.

(c) Notwithstanding any other provision of this chapter, the county may also enforce this chapter by actions at law or in equity for damages and injunctive relief. In the event the county prevails in any such action, the county shall be entitled to an award of costs and attorney's fees.

Sec. 2-35-13. Recommendations.

(a) A voluntary six (6) foot low-maintenance, no-mow zone is recommended from those areas described as fertilizer-free zones in section 2-35-8 in order to reduce the potential for 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 the low-maintenance zone or in the water body or wetland. Care should be taken to prevent the overspray of aquatic weed products in the low-maintenance 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 from the county administrator.

(c) The county recommends the establishment of training programs using Spanish-speaking certified BMP trainers.

(d) The county recommends that private homeowners become familiar with and

utilize the recommendations of the UF/IFAS Florida Yards and Neighborhoods program when applying fertilizer.

Sec. 2-35-14. Territory embraced.

The provisions of this chapter shall embrace all territories within the legal boundaries of Manatee County, Florida, including incorporated and unincorporated areas, unless in conflict with or repealed by a municipal ordinance. In the event of such conflict or repeal, this chapter shall not be effective within the municipality.

Section 2. All county ordinances or parts of county ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

Section 3. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

Section 4. Except as otherwise expressly provided in this ordinance, this ordinance shall take effect upon filing with the Department of State of the State of Florida. However, a three hundred sixty-five (365) day implementation period is hereby established in order to accomplish the following:

- (a) The establishment of approved best management practices training programs.
- (b) For commercial fertilizer applicators, institutional applicators, and other users and applicators of fertilizer to become familiar with the provisions of this ordinance.
- (c) To provide a reasonable period for compliance with the terms of this ordinance.

No enforcement proceedings shall be initiated for three hundred sixty-five (365) days from the effective date; provided, however, warning notices may be issued during the implementation period.

ADOPTED AND ENACTED, by the Board of County Commissioners of Manatee County, Florida, with a quorum present and voting, on the 24th day of May, 2011.

BOARD OF COUNTY COMMISSIONERS
MANATEE COUNTY, FLORIDA

By: _____
Chairman

ATTEST: R.B. Shore
Clerk of the Circuit Court

By: _____
Deputy Clerk

