

ORDINANCE NO. 14-014

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA; AMENDING CHAPTER 17 – “STREETS AND SIDEWALKS”, OF THE FORT PIERCE CODE OF ORDINANCES ESTABLISHING REGULATIONS FOR PROPER USE OF FERTILIZER WITHIN THE CITY OF FORT PIERCE, FLORIDA; CREATING **ARTICLE VI – “FLORIDA-FRIENDLY FERTILIZER USE”**; CREATING SEC. 17-122 “DEFINITIONS”; CREATING SEC. 17-124 “TIMING OF FERTILIZER APPLICATION” PROHIBITING APPLICATION OF CERTAIN FERTILIZERS FROM JUNE 1 THROUGH SEPTEMBER 30 DURING CERTAIN WEATHER EVENTS OR WHEN HEAVY RAINS ARE EXPECTED; CREATING SEC. 17-125 “FERTILIZER FREE ZONES” TO PROHIBIT FERTILIZER APPLICATION WITHIN TEN (10) FEET OF ANY POND, STREAM, WATERCOURSE, LAKE, CANAL, OR WETLAND; CREATING SEC. 17-126 “LOW MAINTENANCE ZONES” TO ESTABLISH A VOLUNTARY TEN (10) FOOT ZONE; CREATING SEC. 17-127 “FERTILIZER CONTENT AND APPLICATION RATES” TO PROVIDE THAT NO FERTILIZER CONTAINING PHOSPHOROUS SHALL BE APPLIED TO TURF OR LANDSCAPE PLANTS UNLESS A SOIL OR PLANT TISSUE DEFICIENCY IS VERIFIED BY AN APPROVED TESTING METHODOLOGY ; PROVIDING THAT THE NITROGEN CONTENT OF FERTILIZER APPLIED TO TURF OR LANDSCAPE PLANTS SHALL CONTAIN AT LEAST 50% SLOW RELEASE NITROGEN PER GUARANTEED ANALYSIS LABEL; CREATING SEC. 17-128 “APPLICATION PRACTICES” REQUIRING DEFLECTOR SHIELDS WHEN FERTILIZING VIA ROTARY (BROADCAST) SPREADERS; PROHIBITING FERTILIZER ON ANY IMPERVIOUS SURFACE OR DEPOSITED INTO STORMWATER DRAINS, DITCHES OR WATER BODIES; CREATING SEC. 17-129 “MANAGEMENT OF GRASS CLIPPING AND VEGETATIVE MATTER” TO PROVIDE THAT GRASS CLIPPINGS BE BLOWN ON LAWN OR REMOVED; CREATING SEC. 17-130 PROVIDING GENERAL AND SPECIFIC “EXEMPTIONS”; CREATING SEC. 17-131 “TRAINING” REQUIRING COMMERCIAL AND INSTITUTIONAL APPLICATORS TO COMPLETE A “FLORIDA-FRIENDLY, BEST MANAGEMENT PRACTICES” TRAINING PROGRAM AND ENCOURGING PRIVATE APPLICATORS TO FOLLOW RECOMMENDATIONS OF UNIVERSITY OF FLORIDA IFAS FLORIDA YARDS AND NEIGHBORHOODS PROGRAM; CREATING SEC. 17-132 “LICENSING OF COMMERCIAL APPLICATORS” REQUIRING COMMERCIAL APPLICATORS TO CARRY EVIDENCE OF CERTIFICATION; CREATING SEC. 17-133 “ENFORCEMENT”; PROVIDING FOR SEVERABILITY; REPEALING ORDINANCES OR PARTS THEREOF IN CONFLICT; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 403.9337, Florida Statutes, each county and municipal government located within the watershed of a water body or water segment that is listed as “impaired” by nutrients pursuant to Section 403.067, Florida Statutes, shall, at a minimum, adopt the Florida Department of Environmental Protection’s Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes; and

WHEREAS, the Florida Department of Environmental Protection has identified specific surface water bodies in the City of Fort Pierce as “impaired” as a result of excess nutrients as defined by the Florida Impaired Waters Rule, Chapter 62-303, Florida Administrative Code; and

WHEREAS, the regulation of nutrients, including both phosphorus and nitrogen contained in fertilizer, is an important step in improving and maintaining water and habitat quality; and

WHEREAS, surface water runoff containing excess nutrients leaves residential neighborhoods, farms, commercial centers, industrial areas and other lands of St. Lucie County with high permeability soils; and

WHEREAS, the detrimental effects of nutrient-laden runoff are magnified in a coastal community such as Fort Pierce, due to the proximity of stormwater and drainage conveyances to coastal waters; and

WHEREAS, this ordinance provides for the enactment of such regulations governing the use of fertilizers on lands within the City of Fort Pierce that contribute to adverse impacts on the Indian River Lagoon and other surface water bodies; and

WHEREAS, as a result of the impairment of the Indian River Lagoon caused by excessive nutrients and the mandates of Section 403.067, Florida Statutes, the City Commission of the City of Fort Pierce desires to adopt more stringent provisions to the Florida Department of Environmental Protection's August 2010 model ordinance for "Florida-Friendly Fertilizer Use on Urban Landscapes", to protect and enhance the water quality of the St. Lucie River and the Indian River Lagoon. The City Commission has determined that the regulations are science based and are economically and technically feasible.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, THAT:

SECTION 1. That Article VI, Chapter 17, is hereby created so that the same shall read hereinafter as follows:

ARTICLE VI FLORIDA-FRIENDLY FERTILIZER USE ON URBAN LANDSCAPES.

Sec. 17-120. Findings.

As a result of impairment to the City of Fort Pierce'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 the City of Fort Pierce, the City Commission has determined that the use of fertilizers on lands within the City of Fort Pierce creates a contributing risk that adversely effects surface and/or ground water which ultimately flows to the Indian River Lagoon.

Sec. 17-121. Purpose and Intent.

This Article 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 Prohibition Application Period; specifies allowable fertilizer application rates and methods, fertilizer-free zones, low maintenance zones, and exemptions. Such Article further 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 the City of Fort Pierce'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 the City of Fort Pierce's 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.

Sec. 17-122. Definitions.

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

"Administrator" means the City Manager, or any other City official designated by the City Manager.

"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 the City of Fort Pierce.

“Board” or “Governing Board” means City Commission of the City of Fort Pierce.

“Best Management Practices” means turf and landscape practices or combinations 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.

“City 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 City Manager.

“Code Enforcement Officer, Official or Inspector” means any designated employee or agent of the City of Fort Pierce whose duty is to enforce codes and ordinances enacted by the City of Fort Pierce.

“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.

“Damaged Turf or Landscape Plants”, means turf or landscape plants that have been deleteriously affected by environmental or biotic stress. Environmental stresses are a result of prolonged exposure to shade drought, nutrient deficiency, the effects of vehicle and foot traffic salinity and occasional cold temperatures. Biotic stresses result from living organisms such as insects, diseases or nematodes.

“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.

“Heavy Rain”, means rainfall greater than or equal to 2 inches (50 mm) in a 24 hour period.

“Impervious surfaces”, means a constructed surface such as sidewalks, roads, parking lots or driveways covered by water impenetrable materials such as asphalt, concrete, brick, pavers, stone and/or highly compacted soils.

“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).

“Lawn Care and Maintenance or Landscaping” shall include, but not be limited to mowing, trimming, pruning, edging, liming, fertilizing, mulching, seeding and aerating of turf and/or landscaping plants.

“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.

“Non-Commercial Applicator” means any person other than a Commercial or Institutional Applicator who performs lawn care and maintenance on Turf and/or Landscape Plants in the City, such as an individual owner or tenant of a single-family residential unit.

“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 June 1 through September 30 or 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 the City of Fort Pierce, issued by the National Weather Service, or if heavy rainfall is likely.

“Saturated soil”, means a soil in which the voids are filled with water. Saturation does not require flow. For the purpose of this section, 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 right-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 section 570.02 F.S.”

Sec. 17-123. Applicability.

This Article shall be applicable to and shall regulate all applicators of fertilizer and areas of application of fertilizer within the City of Fort Pierce, unless such applicator is specifically exempted by the terms of this Article from the regulatory provision of this Article. This regulation shall be prospective only, and shall not impair any existing contracts in effect on May 1, 2014.

Sec. 17-124. Timing of Fertilizer Application.

No applicator shall apply fertilizers containing nitrogen and/or phosphorus to turf and/or landscape plants during the following prohibited application periods:

- 1) June 1 through September 30,
- 2) The time period during which the National Weather Service has issued a Flood Watch or Warning, or a Tropical Storm Watch or Warning, or a Hurricane Watch or Warning for any portion of the City,
- 3) Heavy rains are expected,
- 4) Saturated soils

Sec. 17-125. 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. If more stringent City of Fort Pierce 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 thirty (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.

Sec. 17-126. 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. If more stringent City of Fort Pierce Code regulations apply, this provision does not relieve the requirement to adhere to the more stringent regulations. 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.

Sec. 17-127. Fertilizer Content and Application Rates.

- 1) No fertilizer containing phosphorous shall be applied to turf or landscape plants in the City of Fort Pierce unless a soil or plant tissue deficiency is verified by a University of Florida, Institute of Food and Agriculture Sciences, approved testing methodology. In the case that a deficiency has been verified, the application of a fertilizer containing phosphorous shall be in accordance with the rates and directions for the Southern Region of Florida as provided by Rule 5E-1.003, Florida Administrative Code. Deficiency verification shall be no more than two years old. However, recent application of compost, manure, or top soil shall warrant more recent testing to verify current deficiencies.
- 2) The nitrogen content of fertilizer applied to turf or landscape plants within the City of Fort Pierce shall contain at least 50% slow release nitrogen per guaranteed analysis label.
- 3) Fertilizers applied to an urban lawn or turf within the City of Fort Pierce shall be applied in accordance with requirements and directions set forth on the label or tag for packaged fertilizer products, or in the printed information accompanying the delivery of bulk fertilizer products, as provided by Rule 5E-1.003(2), Florida Administrative Code, Labeling Requirements For Urban Turf Fertilizers. All packaged and bulk fertilizer products sold in the City of Fort Pierce shall be sold in packages with labels or tags, or, if sold in bulk, be accompanied by printed information, which complies with the requirements of Rule 5E-1.003(2), Florida Administrative Code.
- 4) Fertilizer containing nitrogen or phosphorus 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.

Sec. 17-128. Application Practices.

- 1) 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, include wetlands.
- 2) Fertilizer shall not be applied, spilled or otherwise deposited on any impervious surfaces.
- 3) 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.
- 4) 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.
- 5) In no case shall fertilizer be washed, swept, or blown off impervious surfaces into stormwater drains, ditches, conveyances, or water bodies.

Sec. 17-129. Management of Grass Clipping 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. Grass clippings should be blown back onto lawn areas or removed.

Sec. 17-130. Exemptions.

The provisions set forth in this Article shall not apply to:

- 1) Bona fide farm operations as defined in the Florida Right to Farm Act, Section 823.14, F.S.;
- 2) Other Properties not subject to or covered under the Florida Right to Farm Act that have pastures used for grazing livestock;

- 3) 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.
- 4) Golf courses when landscaping is performed within the provisions of the Florida Department of Environmental Protection document, "Best Management Practices for the Enhancement of Environmental Quality on Florida Golf Courses", these provisions shall be followed when applying fertilizer to golf course practice and play areas;
- 5) Athletic fields at public parks and school facilities that apply the concepts and principles embodied in the Florida Green BMPs, while maintaining the health and function of their specialized turf areas;
- 6) Vegetable gardens owned by individual property owners or a community, and trees grown for their edible fruit.

Sec. 17-131. Training.

- 1) All commercial and institutional applicators or fertilizer within the City of Fort Pierce, 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 Landscapes" program, or an approved equivalent.
- 2) Private, non-commercial applicators are encouraged to follow the recommendations of the University of Florida IFAS Florida Yards and Neighborhoods program when applying fertilizers.

Sec. 17-132. Licensing of Commercial Applicators.

- 1) After December 31, 2014, all commercial applicators of fertilizer with the City of Fort Pierce, shall abide by and successfully complete training and continuing education requirements 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 IFAS "Florida-friendly Landscapes" program, or an approved equivalent program, prior to obtaining a City of Fort Pierce Local Business Tax Receipt for any category of occupation which may apply any fertilizer to turf and/or landscape plants.
- 2) After December 31, 2014, all commercial applicators of fertilizer within the City of Fort Pierce, 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.
- 3) 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 Receipt. Owners for any category of occupation which may apply and fertilizer to turf and/or landscape plants shall provide proof of completion of the program to the City of Fort Pierce.

Sec. 17-133. Enforcement.

The provisions of this Article may be enforced pursuant to any method provided for by the Code or Ordinances or general law.

SECTION 2. Special acts of the Florida legislature applicable only to the City, City ordinances and City resolutions, or parts thereof, in conflict with this ordinance are hereby superseded by this ordinance to the extent of such conflict.

SECTION 3. If any portion of this ordinance is for any reason held or declared to be unconstitutional, inoperative, or void, such holding shall not affect the remaining portions of this ordinance. If this ordinance or any provision thereof shall be held to be inapplicable to any person, property, or circumstance, such holding, or circumstance, shall not affect its applicability to any other person, property, or circumstance.

SECTION 4. All ordinances or parts thereof are and the same shall be repealed and shall be of no further force or effect whatsoever.

SECTION 5. The effective date of this Ordinance shall be immediately upon its passage by the City Commission.

APPROVED AS TO FORM
AND CORRECTNESS:

ROBERT V. SCHWERER, ESQ.
CITY ATTORNEY

(STATE OF FLORIDA)
(ST. LUCIE COUNTY)SS

WE, THE UNDERSIGNED, Mayor Commissioner and the City Clerk of the City of Fort Pierce, Florida, do hereby certify that the foregoing and above Ordinance No. 14-014 was duly advertised by title only in the St. Lucie News Tribune on April 11, 2014; copy of said ordinance was made available at the office of the City Clerk to the public upon request; said ordinance was duly introduced, read by title only, and passed on first reading by the City Commission of the city of Fort Pierce, Florida, on April 21, 2014; and was duly introduced, read by title only, and passed on second and final reading on May 5, 2014 by the City Commission of the City of Fort Pierce, Florida.

In witness herewith, we hereunto set our hands and affix the Official Seal of the City of Fort Pierce, Florida, this the 5th day of May, 2014.

LINDA HUDSON, MAYOR COMMISSIONER

LINDA W. COX, CITY CLERK

(CITY SEAL)