

### Staff Summary

The purpose of this ordinance is to create a new section in Lake County Code, Appendix E, Land Development Regulations, Chapter VI, Section 6.13.00 entitled "Fertilizer Use" to adopt the Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes, as amended, and comply with requirements of the laws of the State of Florida. The Model Ordinance was developed by the Florida Department of Environmental Protection in conjunction with the Consumer Fertilizer Task Force, the Department of Agriculture and Consumer Services, and the University of Florida Institute of Food and Agricultural Sciences in order to assist in protecting the quality of Florida's surface water and groundwater resources.

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).

### ORDINANCE 2017 - \_\_\_\_\_

**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 TO CREATE A NEW SECTION, ENTITLED "FERTILIZER USE"; ADOPTING THE FLORIDA DEPARTMENT OF ENVIRONMENT PROTECTION MODEL ORDINANCE FOR FLORIDA-FRIENDLY FERTILIZER USE ON URBAN LANDSCAPES; PROVIDING FOR SEVERABILITY; PROVIDING FOR FILING WITH THE DEPARTMENT OF STATE; AND PROVIDING AN EFFECTIVE DATE.**

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

**WHEREAS**, Section 373.807(2), Florida Statutes requires each local government, as defined in Section 373.802(2), by July 1, 2017, to develop, enact, and implement an ordinance pursuant to the Model Ordinance for 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, Lake 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 Lake County are critical to the environmental, economic and recreational prosperity of the County and its residents; and

**Ordinance No. 2017-\_\_\_\_\_; “Fertilizer Use”**

**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 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 currently “Reserved” is hereby amended to include a new Section 6.13.00, entitled “Fertilizer Use” stating as follows:

**Chapter VI.    Resource Protection Standards.**

**6.13.00 ~~Reserved~~Fertilizer Use.**

**6.13.01 General.**

**A.      Legislative Findings.** As a result of impairment to the 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, the County has determined that the use of fertilizers on lands within Lake County has the potential for adverse effects on surface and/or ground water. Accordingly, the County finds that management measures contained in the “Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries”, as amended, may be required by this ordinance.

**B.      Purpose and intent.** This section 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 Lake 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 Lake 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.

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

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

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

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 unincorporated Lake 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.

Commercial Fertilizer Applicator except as provided in F.S. § 482.1562(9) 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, 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 Lake County, issued by the National Weather Service.

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

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.

### **6.13.03 General Requirements.**

A. 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.

B. Fertilizer Free Zones. Fertilizer shall not be applied within ten (10) feet of any pond, stream, watercourse, lake, canal, or wetland as defined in Chapter 62-340, F.A.C., as amended, 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 three (3) feet shall be maintained. 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.

C. 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. If more stringent Lake County 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 shall be taken to prevent the over-spray of aquatic weed products in this zone.

D. Fertilizer Content and Application Rates.

1. Fertilizers applied to turf within unincorporated Lake County shall be applied in accordance with requirements and directions provided by Section 5E-1.003, FA.C., as amended.
2. Fertilizer containing nitrogen shall not be applied before seeding or sodding a site, and shall not be applied for the first thirty (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.
3. Nitrogen or phosphorus fertilizer shall not be applied to Turf or landscape plants except as provided in subsection (1) 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.

E. 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, including 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.

F. 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.

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

1. Bona fide farm operations as defined in the Florida Right to Farm Act, F.S. § 823.14, as amended;
2. Other properties not subject to or covered under the subsection 1 above 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; and
4. Golf courses, athletic fields and Turf managed for active recreation, whose owners implement best management practices as described in Section 5E-1.003(2)(d), F.A.C. entitled "Fertilizers Labeled, for Sports Turf at Golf Courses, Parks and Athletic Fields", as amended.

#### **6.13.04 Training.**

A. All commercial and institutional applicators of Fertilizer within the unincorporated area of Lake County shall abide by and successfully complete the 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.

**6.13.05 Licensing of Commercial Applications.** All commercial applicators of Fertilizer within the unincorporated area of Lake County 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 Section 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.

**Ordinance No. 2017-\_\_\_\_\_; "Fertilizer Use"**

**Section 3. 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 Lake County Code.

**Section 4. 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 Commissioner'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 of 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 a certified copy of this Ordinance to the Secretary of State for the State of Florida.

**Section 6. Effective Date.** This ordinance shall become effective as provided for by law.

ENACTED this day of \_\_\_\_\_ day of \_\_\_\_\_, 2017.

FILED with the Secretary of State the \_\_\_\_ day of \_\_\_\_\_, 2017.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
OF LAKE COUNTY, FLORIDA

\_\_\_\_\_  
Neil Kelly, Clerk of the  
Board of County Commissioners of  
Lake County, Florida

\_\_\_\_\_  
Timothy I. Sullivan, Chairman

This \_\_\_\_ day of \_\_\_\_\_, 2017.

Approved as to form and legality:

\_\_\_\_\_  
Melanie Marsh, County Attorney