

## Code of Ordinances of the County of Volusia

### Chapter 50, Article VII, Florida Friendly Fertilizer Use

#### **Sec. 50-520. Findings.**

As a result of impairment to surface waters caused by excessive nutrients, and as a result of increasing levels of nitrogen in the surface and ground water within the aquifers and springs, the county council hereby determines that the use of fertilizers creates a risk to contributing to adverse effects on surface and ground water. Accordingly, the county council hereby finds that management measures contained in the most recent edition of the *Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries* are required.

#### **Sec. 50-521. 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 prohibited application period; and specifies allowable fertilizer application rates and methods, fertilizer free zones, low maintenance zones, and exemptions. This article 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 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 county residents and the health of the public in general. Overgrowth of algae and vegetation hinder the effectiveness of flood attenuation provided by natural and constructed stormwater conveyances. Regulation of nutrients, including both nitrogen and phosphorus contained in fertilizer, will help improve and maintain water and habitat quality.

#### **Sec. 50-522. Definitions.**

For the purposes of this article, the following terms shall have the meanings set forth in this section; words used in the singular shall include plural, and the plural, singular; words used in the present tense shall include future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined herein shall have the meaning given in other sections of this code and if not therein, shall have the meaning given by common and ordinary use:

*Administrator* means the county manager, or an administrative official designated by the county manager to administer and enforce the provisions of this article.

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

*Applicator* means any person who applies fertilizer on turf and/or landscape plants.

*Approved Best Management Practices Training Program* means a training program approved pursuant to Section 403.9338, *Florida Statutes*, 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*, as may be amended.

*Best Management Practices* means turf and landscape practices or a 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.

*Code Enforcement Officer, Official or Inspector* means any designated employee or agent whose duty it is to enforce codes and ordinances.

*Commercial Fertilizer Applicator*, except as provided in Section 482.1562(9), *Florida Statutes*, 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* 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. *Fertilizer* does not include unmanipulated peat or compost which make no claims as described in the preceding sentence.

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

*Institutional Fertilizer Applicator* means any person, other than a private, non-commercial or a commercial fertilizer applicator (unless such definitions also apply under the circumstances), that applies fertilizer for the purpose of maintaining turf and/or landscape plants. *Institutional Fertilizer 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 the county, issued by the National Weather Service, or if

heavy rain, as defined by the World Meteorological Organization as rainfall greater than or equal to two (2) inches in a twenty-four (24) hour period, is likely.

*Saturated Soil* means a soil in which the voids are filled with water. Saturation does not require flow. For the purposes of this article, 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.

#### **Sec. 50.523. Applicability.**

This article shall apply and regulate any and all applicators of fertilizer and areas of application of fertilizer within the incorporated and unincorporated areas of the county, unless such applicator is specifically exempted by the terms of this article. This article shall be prospective only, and shall not impair any existing contracts.

#### **Sec. 50.524. Timing of fertilizer application.**

(a) 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 containing nitrogen or phosphorus 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, or in accordance with an adopted stormwater pollution prevention plan for that site.

(c) Fertilizer containing nitrogen or phosphorus shall not be applied to turf or landscape plants June 1 through September 30 of each year.

#### **Sec. 50.525. Fertilizer free zones.**

(a) Fertilizer shall not be applied within fifteen (15) feet of any pond, stream, watercourse, lake, canal, or wetland as defined by the Florida Department of Environmental Protection Rule 62-340, *Florida Administrative Code* or from the top of a seawall. 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 needed to allow the plants to become well established. Caution shall be used to prevent direct deposition of nutrients into the water.

#### **Sec. 50.526. Low maintenance zones.**

(a) 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. 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. 50.527. Fertilizer content and application rates.**

(a) Fertilizers applied to turf shall be applied in accordance with requirements and directions provided by Rule 5E-1.003, *Florida Administrative Code*, "Fertilizer Label Requirements for Urban Turf, Sports Turf or Lawns."

(b) Nitrogen or phosphorus fertilizer shall not be applied to turf or landscape plants except as provided in subsection (a) for turf, or in the University of Florida/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.

(c) Fertilizers containing phosphorus shall not be applied to turf, sod, lawns or landscape plants in Volusia County. No fertilizer containing phosphorus shall be applied to turf, sod, lawns or landscape plants unless a soil or plant tissue deficiency is verified by a testing methodology approved by the University of Florida, Institute of Food and Agricultural Sciences. If a deficiency is verified, the application of fertilizer containing phosphorus shall adhere to the rates and directions for the appropriate Region of Florida, as adopted by Florida Administrative Code Rule. This subsection supersedes any inconsistent provisions in subsections (a) and (b) regarding phosphorus.

(d) Fertilizers containing nitrogen applied to turf or landscaping plants within Volusia County shall contain no less than fifty percent (50%) Slow Release Nitrogen per Guaranteed Analysis Label. This subsection supersedes any inconsistent provisions in subsections (a) and (b) regarding nitrogen.

**Sec. 50.528. Application practices.**

(a) 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.

(b) Fertilizer shall not be applied, spilled, or otherwise deposited on any impervious surfaces.

(c) 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.

(d) 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.

(e) In no case shall fertilizer be washed, swept, or blown off impervious surfaces into stormwater drains, ditches, conveyances, or water bodies.

**Sec. 50.529. Management of grass clippings and vegetative matter.**

(a) 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.

**Sec. 50.530. Exemptions.**

This article shall not apply to:

(a) Bona fide farm operations as defined in Section 823.14, *Florida Statutes*, "Florida Right to Farm Act."

(b) Other properties not subject to or covered under subsection (a) that have pastures used for grazing livestock.

(c) Any lands used for bona fide scientific research, including, but not limited to, research on the effects of fertilizer use on stormwater, water quality, agronomics, or horticulture.

(d) Golf courses, athletic fields and turf managed for active recreation, whose owners implement best management practices as described in Rule 5E-1.003(2)(d), *Florida Administrative Code*, "Fertilizers Labeled for Sports Turf at Golf Courses, Parks and Athletic Fields."

**Sec. 50.531. Training.**

(a) All commercial and institutional fertilizer applicators 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/IFAS *Florida-Friendly Landscapes* 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.

**Sec. 50.532. Licensing of commercial fertilizer applicators.**

(a) By September 30, 2014, all commercial fertilizer applicators 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. Commercial fertilizer applicators shall provide proof of completion of the program prior to obtaining a new Local Business Tax Receipt for any

category of occupation which may apply any fertilizer to turf and/or landscape plants. Commercial fertilizer applicators with an existing Local Business Tax receipt for any category of occupation which may apply any fertilizer to turf and/or landscape plants shall provide proof of completion of the program within thirty (30) days after completing the program and prior to September 30, 2014.

(b) After September 30, 2014, all commercial fertilizer applicators 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 pursuant to Rule 5E-14.117(18), *Florida Administrative Code*.

(c) By September 30, 2014, all businesses applying fertilizer to turf and/or landscape plants (including but not limited to residential lawns, commercial properties, and multi-family and condominium properties) shall ensure that at least one employee has a *Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries* training certificate. Business owners for any category of occupation which may apply any fertilizer to turf and/or landscape plants shall provide proof of completion of the program by at least one employee prior to the business owner obtaining a new Local Business Tax Receipt. Business owners for any category of occupation which may apply any fertilizer to turf and/or landscape plants with an existing Local Business Tax Receipt shall provide proof of completion of the program by at least one employee within thirty (30) days after completing the program and prior to September 30, 2014.

#### **Sec. 50-534. Enforcement; declaration.**

(a) The county council hereby finds and declares that a violation of this article presents a serious threat to the public health, safety and welfare and is irreparable or irreversible in nature. No violator of this article shall be entitled to an opportunity to correct a violation prior to the levy of a civil penalty in accordance with any of the enforcement methods prescribed in Sections 1-7, 2-392, or other applicable section of this code. The civil penalty shall be \$50.00 for each violation. However, if the person has been previously found through a code enforcement board or any other quasi-judicial or judicial process to have violated, or who has admitted violating, this article within five years prior to the violation, the civil penalty shall be \$100.00 for a second violation, \$250.00 for a third violation and \$500.00 for a fourth or subsequent violation, notwithstanding the violations occurring at different locations.