

ORDINANCE NO. C-13-

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING CHAPTER 28, ARTICLE I, OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, BY CREATING SECTION 28-4 TO PROVIDE FOR STANDARDS FOR FLORIDA-FRIENDLY FERTILIZER USE ON URBAN LANDSCAPES; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Section 403.067, Florida Statutes, as amended, and the National Pollutant Discharge Elimination System ("NPDES") municipal stormwater permitting program require local governments to reduce pollutant loads discharged from their stormwater management systems to better protect and restore surface and ground waters; and

WHEREAS, Section 403.9337, Florida Statutes, as amended, provides for the adoption of an ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes; and

WHEREAS, the City Commission of the City of Fort Lauderdale recognizes the need for the protection of water as a natural resource through the application of Standards for Florida-Friendly Fertilizer Use on Urban Landscapes; and

WHEREAS, Broward County and other municipalities have adopted similar ordinances setting standards for fertilizer use on urban landscapes;

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

SECTION 1. That Chapter 28, Water, Wastewater and Stormwater, Article I, of the Code of Ordinances of the City of Fort Lauderdale is hereby amended to create a new Section 28-4, entitled "Standards for Florida-Friendly Fertilizer Use on Urban Landscapes," to read as follows:

Sec. 28-4. Standards for Florida-Friendly Fertilizer Use on Urban Landscapes.

(a) Definitions. The following words, terms and phrases, in *italic*, shall have the meanings ascribed to them in 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 the City.

Approved Best Management Practices Training Program means a training program approved per Section 403.9338, Florida Statutes, as amended, or any more stringent requirements set forth in this section 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.

Best Management Practice 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 or Commercial Applicator, except as provided in Section 482.1562(9), Florida Statutes, as amended, 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, 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.

Institutional 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 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.

Non-Commercial Fertilizer Applicator means any natural person who applies fertilizer on turf and/or landscape plants on his/her own private, residential property, or that of another when not done in exchange for money, goods, services, or other valuable consideration.

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 City, issued by the National Weather Service, or if heavy rain greater than or equal to 2 inches in a 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 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. For the purposes of this section, agriculture has the same meaning as in Section 570.02, Florida Statutes, as amended.

(b) Fertilizer management.

(1) Applicability: The provisions of this section shall apply to all fertilizer applications within the incorporated area of the City of Fort Lauderdale with the following exceptions:

- i. Bona fide farm operations as defined in the Florida Right to Farm Act, Section 823.14, Florida Statutes, as amended, provided that fertilizers are applied in accordance with the appropriate Best Management Practices

manual adopted by the Florida Department of Agriculture and Consumer Services, Office of Agricultural Water Policy, for the crop in question.

- ii. Fertilizer applications for golf courses, parks, and athletic fields, provided that the provisions of Rule 5E-1.003(2)(d), F.A.C., as amended, are followed.

(2) Licensing and training of commercial fertilizer applicators:

- (i) By January 1, 2014, application of fertilizer to an urban landscape shall only be done by a commercial fertilizer applicator certified by the Department of Agriculture and Consumer Services pursuant to Section 482.1562, Florida Statutes, as amended.
- (ii) All commercial and institutional applicators of fertilizer within the incorporated area of the City of Fort Lauderdale, 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.
- (iii) Prior to January 1, 2014, all commercial applicators of fertilizer within the incorporated area of the City of Fort Lauderdale, 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 Lauderdale Local Business Tax Certificate for any category of occupation which may apply any fertilizer to turf and/or landscape plants. Commercial Fertilizer Applicators shall provide proof of completion of the program to the City of Fort Lauderdale within 180 days of the effective date of this ordinance.

- (iv) Beginning January 1, 2014, all commercial applicators of fertilizer within the incorporated area of the City of Fort Lauderdale, 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., as amended.
- (v) 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 Certificate. 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 to the City of Fort Lauderdale.
- (vi) All commercial and institutional fertilizer applicators within the City of Fort Lauderdale shall comply with the standards adopted in this section.

(3) Licensing and training of non-commercial fertilizer applicators.

- (i) Private, non-commercial applicators are encouraged to follow the recommendations of the University of Florida IFAS Florida Yards and Neighborhoods program when applying fertilizers.
- (ii) Non-commercial fertilizer applicators not otherwise required to be certified, such as private citizens applying fertilizer on their own residential properties, are encouraged to follow the most recent edition of the *Florida Yards and Neighborhoods Handbook* (Univ. of Florida) and UF/IFAS Extension's most recent Florida Yards and Neighborhoods program recommendations.

(4) Fertilizer content, application rates and practices:

- (i) Fertilizers applied to turf and/or landscape plants shall be formulated and

applied in accordance with requirements and directions as provided on the fertilizer bag and by Rule 5E-1003(2), F.A.C., as amended.

- (ii) 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.
- (iii) Nitrogen or phosphorus fertilizer shall not be applied to turf or landscape plants except as provided in (i) 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.
- (iv) 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.
- (v) 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, 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 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 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.
- (vi) A voluntary ten (10) foot low maintenance zone is strongly recommended from any pond, stream, water course, lake, wetland, or from the top of any 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 should 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.

- (vii) Spreader deflector shields are required when fertilizing via rotary (broadcast) spreaders. Deflectors must be positioned so that fertilizer granules are deflected away from all impervious surfaces, fertilizer-free zones, and water bodies, including wetlands.
- (viii) Fertilizer shall not be applied, spilled, or otherwise deposited on any impervious surfaces.
- (ix) 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.
- (x) 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.
- (xi) In no case shall fertilizer be washed, swept, or blown off impervious surfaces into stormwater drains, ditches, conveyances, or water bodies.

SECTION 2. That if any clause, section or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 3. That all ordinances or parts of ordinances in conflict herewith, be and the same, are hereby repealed.

SECTION 4. That this Ordinance shall be in full force and effect from the date of final passage.

PASSED FIRST READING this the ____ day of _____, 2013.

PASSED SECOND READING this the ____ day of _____, 2013.

Mayor
JOHN P. "JACK" SEILER

ATTEST:

City Clerk
JONDA K. JOSEPH

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