

ORDINANCE NO. 2019 - 18

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA, REPEALING AND REPLACING ORDINANCE NO. 2011-24, BY ADOPTING THE COLLIER COUNTY FERTILIZER AND URBAN LANDSCAPING ORDINANCE; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on July 26, 2011, the Board of County Commissioners adopted Ordinance No. 2011-24, which was fashioned after the Florida Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes, as set forth in Florida Statutes Sec. 403.9337; and

WHEREAS, since such time, the Model Ordinance has been updated and modified; and

WHEREAS, the quality of Collier County’s stormwater conveyances, rivers, creeks, canals, lakes, estuaries and other waterbodies have worsened since the adoption of Ordinance No. 2011-24, including the County recently experiencing the worst red tide bloom in its history, which devastated local fish and wildlife, rendered fishing and beach-going untenable for lengthy periods of time, and greatly impacted the County’s tourist industry; and

WHEREAS, the Board of County Commissioners has heard testimony, reviewed documents, and has considered relevant scientific information, including input from all relevant State Agencies, including the Department of Environmental Protection, the Department of Agriculture and Consumer Services, and the University of Florida Institute of Food and Agricultural Sciences, on the need for additional or more stringent provisions to address fertilizer use as a contributor to water quality degradation; and

WHEREAS, based on this testimony and documents, the Board has concluded that additional or more stringent standards than the model ordinance are necessary in order to adequately address urban fertilizer contributions to nonpoint source nutrient loading to a water body.

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

SECTION ONE: Title and Citation

This Ordinance shall be known and cited as “The Collier County Fertilizer and Urban Landscaping Ordinance,” and is intended to repeal and replace Ordinance No. 2011-24. The provisions of this Ordinance shall apply to, and be enforced in, the unincorporated areas of Collier County.

SECTION TWO: Findings

The Board hereby ratifies and reaffirms the above whereas clauses and incorporates them as if fully set forth herein as the Board’s legislative findings.

SECTION THREE: Purpose and Intent

This Ordinance 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 Collier 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 Collier 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.

SECTION FOUR: Definitions

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

“Administrator” means the Collier County Administrator, or an administrative official of Collier County designated by the County Administrator to administer and enforce the provisions of this Article.

“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 Collier County.

“Approved Best Management Practices Training Program” means a training program approved per F.S. § 403.9338, 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 Collier County Administrator.

“Board or Governing Board” means the Board of County Commissioners of Collier 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.

“Code Enforcement Officer, Official, or Inspector” means any designated employee or agent of Collier County whose duty it is to enforce codes and ordinances enacted by Collier County.

“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,” 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. Reclaimed water is not considered a fertilizer.

“Green Industries Best Management Practices (GI-BMPs)” shall be defined as a science-based educational program for Green Industry workers (lawn-care and landscape maintenance professionals). The GI-BMPs teach environmentally safe landscaping practices that help conserve and protect Florida’s ground and surface waters.

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

“Impervious” shall be defined as a constructed surface, such as a sidewalk, road, parking lot, or driveway, covered by impenetrable materials such as asphalt, concrete, brick, pavers, stone, 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).

“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 Collier County, issued by the National Weather Service, or if there is a 60% chance of 2 inches or greater of rain in a 24-hour period.

“Reclaimed Water” shall be defined per Chapter 62-610 F.A.C. as it may be amended from time to time, as water that has received at least secondary treatment and basic disinfection and is reused after flowing out of a domestic wastewater treatment facility.

"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.

“Specialized Turf Managers” shall be defined as landscape managers of non-agricultural land planted exclusively for golf course, parks, or athletic fields.

“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 s. 570.02.

“Waterbody or Waterbodies” shall be defined as any visible, standing or open body of water. This shall include, but not be limited to: ditches, swales, canals, creeks, rivers, streams, tidal waters, lakes, ponds, ponded water, standing water, marshes, swamps or any other body of permanent or temporary standing or visible water whether or not the waterbody is natural or man-made or contained by impervious surfaces on the bottom or sides and all wetlands.

“Wetlands” shall be defined per Chapter 62-340 F.A.C. as it may be amended from time to time, as those areas that are inundated or saturated by surface water or groundwater at a frequency and a duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soils.

SECTION FIVE: Applicability

This Ordinance shall be applicable to and shall regulate any and all applicators of fertilizer and areas of application of fertilizer within the unincorporated area of Collier County, unless such applicator is specifically exempted by the terms of this Ordinance from the regulatory provisions of this Ordinance. This Ordinance shall be prospective only and shall not impair any existing contracts.

SECTION SIX: 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.

SECTION SEVEN: Prohibitions

- A. Application of phosphorus fertilizer is prohibited unless a soil test conducted within the last 12 months indicates a phosphorus deficiency. Soil test method and limits shall be those recommended by UF/IFAS;
- B. No applicator shall apply fertilizers containing nitrogen or phosphorus to turf and/or landscape plants during the Prohibited Application Period or to saturated soils;
- C. Fertilizer shall not be applied in a manner that will allowed enter into any waterbody;
- D. Fertilizer shall not be applied to impervious surfaces. If accidentally applied, the fertilizer must be immediately removed from the impervious surface;
- E. Fertilizer shall not be applied within ten (10) feet of any waterbody except that newly planted turf and/or landscape plants may be fertilized only for a sixty (60) day period beginning 30 days after planting, if needed to allow the plants to become well established;
- F. Fertilizer shall not be applied to native vegetated buffers required by Collier County Land Development Code 3.05.07.F.3.f.; and
- G. With the exception of grass clippings from mowing grassed swales, grass clippings or vegetative material and vegetative debris shall not be washed, swept, or blown onto impervious surfaces, into waterbodies, wetlands, or any part of the stormwater management system. Any material that is accidentally so deposited shall be immediately removed.

SECTION EIGHT: Exemptions

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

- A. Bona fide farm operations as defined in the Florida Right to Farm Act, F.S. § 823.14;

- B. Other properties not subject to or covered under the Florida Right to Farm Act 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 urban stormwater, water quality, agronomics, or horticulture;
- D. All golf courses provided that management is done within the provisions of the Florida Department of Environmental Protection document, "Best Management Practices for the Enhancement of Environmental Quality on Florida Golf Courses, 2007" (Florida Golf Course BMPs), as updated. Florida Golf Course BMPs shall be followed when performing management practices on golf course practice and play areas. If Florida Golf Course BMPs are not adhered to, Collier County may take enforcement action in accordance with Section 14 of this Ordinance. Non-play areas are not exempt; and
- E. All Specialized Turf Managers provided that fertilization is based on the provisions of Rule 5E-1.003 F.A.C. and UF/IFAS Publication #SL 191: *Recommendations for N, P, K, and Mg for Golf Course and Athletic Field Fertilization Based on Mehlich III Extractant, while maintaining the health and function of their Specialized Turf areas*, as updated or amended.

SECTION NINE: Fertilizer Content and Application Rates

- A. Fertilizers applied to turf within Collier County shall be applied in accordance with requirements and directions provided by Rule 5E-1.003, Florida Administrative Code;
- B. Fertilizer containing nitrogen 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;
- C. A Guaranteed Analysis may be required of alternative fertilizers such as manure or compost at the applicators/property owner's expense;
- D. Areas that have reclaimed water must account for the amount of nitrogen and phosphorus in the reclaimed water when applying fertilizer. All purveyors of reclaimed water that is distributed within unincorporated Collier County must make this information available on a quarterly basis;
- E. Nitrogen content in any fertilizer must be at a minimum of 50% slow release; and
- F. Rule 5E-1.003, F.A.C. contains provisions for golf courses, parks and athletic fields. As such, no additional specific requirements are included for these types of urban turf.

SECTION TEN: Application Practices

- A. Fertilizer shall not be applied within 10 feet of any waterbody;
- B. 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 waterbodies, including wetlands;
- C. 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 and either legally applied to turf or any other legal site, or returned to the original or other appropriate container; and
- D. In no case shall fertilizer be washed, swept, or blown off impervious surfaces into stormwater drains, ditches, conveyances, or waterbodies.

SECTION ELEVEN: Training

- A. All commercial and institutional applicators of fertilizer within the unincorporated area of Collier County 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 Landscaping™” program, or an approved equivalent; and
- B. Private, non-commercial applicators are exempt from formal training and certificate requirements but are encouraged to follow the recommendations of the University of Florida IFAS Florida Yards and Neighborhoods program when applying fertilizers.

SECTION TWELVE: Licensing of Commercial Applicators

- A. All commercial applicators of fertilizer within the unincorporated area of Collier 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 5E-14.117(11) F.A.C. as amended; and
- B. 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 License. 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 County Tax Collector's Office prior to obtaining their first business tax license.

SECTION THIRTEEN: Low Maintenance Zones

A voluntary ten-foot, low maintenance zone adjacent to waterbodies is strongly recommended. Failure to comply with state regulations and best management practices when applying pesticides in the low maintenance zone is considered a violation of this ordinance.

SECTION FOURTEEN: Penalty for Violations

Violation of any provision of this Ordinance shall be punishable by a fine not exceeding \$500. All violations of this Ordinance may be processed according to the Collier County Consolidated Code Enforcement Ordinance (Ord. No. 2010-04, as amended) and per provisions of Chapter 162, pts. I or II, Florida Statutes, as may be applicable.

SECTION FIFTEEN: Conflict and Severability

In the event this Ordinance conflicts with any other ordinance of Collier County or other applicable law, the more restrictive shall apply. If any phrase or portion of the Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion.

SECTION SIXTEEN: Inclusion in the Code of Laws and Ordinances

The provisions of this Ordinance shall become and be made a part of the Code of Laws and Ordinances of Collier County, Florida. The sections of the Ordinances may be renumbered or relettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or any other appropriate word.

SECTION SEVENTEEN: Effective Date

This Ordinance shall become effective upon receipt of notice from the Secretary of State that this Ordinance has been filed with the Secretary of State.

PASSED AND DULY ADOPTED by the Board of County Commissioners of Collier County, Florida, this 9th day of July, 2019.

ATTEST:
CRYSTAL K. KINZEL, Clerk

BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA

By: [Signature]
Deputy Clerk

By: [Signature]
William L. McDaniel, Jr., Chairman

Approved as to form and legality:
[Signature]
Jeffrey A. Klatzkow, County Attorney

This ordinance filed with the Secretary of State's Office the 9th day of July, 2019 and acknowledgement of that filing received this 10th day of July, 2019
By: [Signature]
Deputy Clerk





FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

July 10, 2019

Ms. Martha Vergara, Senior Deputy Clerk
Office of the Clerk of the Circuit Court
& Comptroller of Collier County
3299 Tamiami Trail, Suite #401
Naples, Florida 34112-5324

Dear Ms. Vergara:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Collier County Ordinance No. 2019-18 which was filed in this office on July 9, 2019.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb