



**FLORIDA DEPARTMENT of STATE**

**RICK SCOTT**  
Governor

**KEN DETZNER**  
Secretary of State

July 24, 2014

Ms. Paula S. O'Neil  
Clerk and Comptroller  
The East Pasco Governmental Center  
Pasco County  
14236 6<sup>th</sup> Street, Suite 201  
Dade City, Florida 33523

Attention: Ms. Sandra R. Bader, Board Clerk

Dear Ms. O'Neil:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Pasco County Ordinance No. 14-16, which was filed in this office on July 24, 2014.

Sincerely,

Liz Cloud  
Program Administrator

LC/elr

BY BOARD OF COUNTY COMMISSIONERS

ORDINANCE NO. 14-16

**AN ORDINANCE REGULATING THE APPLICATION OF FERTILIZER;  
PROVIDING FOR REPEALER; PROVIDING FOR SEVERABILITY;  
PROVIDING FOR APPLICABILITY; PROVIDING FOR INCLUSION IN CODE;  
PROVIDING AN EFFECTIVE DATE.**

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**WHEREAS**, pursuant to Article VIII, Section (1)(f) of the Florida Constitution and Section 125.01, Florida Statutes, Pasco County has broad home rule powers to carry out county government, including the power to adopt ordinances to provide for the common good; and

**WHEREAS**, the Pasco County Board of County Commissioners finds that as a result of increasing levels of nitrogen in the surface and/or ground water within the aquifers or springs within the boundaries of Pasco County, the use of fertilizers on lands within Pasco County creates a risk of contributing to adverse effects on surface and/or ground water; and

**WHEREAS**, the Pasco County Board of County Commissioners finds that measures are needed in addition to those required by the most recent edition of the "*Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries, 2008*," and

**WHEREAS**, the Board finds that enactment of this Ordinance through its police powers will protect the public health, safety and welfare of the residents of the County and it is appropriate to adopt regulations for the proper application of fertilizer; and

**WHEREAS**, pursuant to law, notice has been given by publication in a paper of general circulation in the County, notifying the public of this proposed ordinance and of a public hearing; and

**WHEREAS**, a public hearing before the Pasco County Board of County Commissioners was held pursuant to the published notice described above, at which the parties in interest and all other citizens so desiring had an opportunity to be and were in fact heard; and

**NOW THEREFORE BE IT ORDAINED** by the Pasco County Board of County Commissioners of Pasco County, Florida, hereby adopts the following addition to the Pasco County Code of Ordinances which shall be referred to as the "Fertilizer Ordinance."

5  
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**SECTION 1. FINDINGS.**

The foregoing Whereas clauses are hereby adopted as legislative findings of the Pasco County Board of County Commissioners and are ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption.

**SECTION 2. CREATION OF FERTILIZER APPLICATION PROVISIONS.**

A new Article IV of Chapter 42 of the Pasco County Code of Ordinances is hereby created relating to Fertilizer Application as follows:

FERTILIZER APPLICATION

FINDINGS

As a result of impairment to Pasco 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 within the boundaries of Pasco County, the governing body of Pasco County has determined that the use of fertilizers on lands within Pasco County creates a risk to contributing to adverse effects on surface and/or ground water. Accordingly, the Board of County Commissioners 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, 2008," may be required by this ordinance.

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 and Restricted 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 Pasco County's natural and constructed stormwater and drainage conveyances, rivers, creeks, canals, lakes, estuaries and other water bodies. Collectively, these water bodies are an asset critical to the environmental, recreational, cultural and economic well-being of Pasco 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 and drainage conveyances. Regulation of nutrients, including both phosphorus and nitrogen contained in Fertilizer, will help improve and maintain water and habitat quality.

#### DEFINITIONS:

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

*"Administrator"* means the Pasco County Administrator, or an official of Pasco County government 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 Pasco County,

*"Board or Governing Board"* means the Board of County Commissioners of Pasco 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 Pasco County whose duty it is to enforce codes and ordinances enacted by Pasco County.

*"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," "Fertilizing," or "Fertilization"* means the act of applying Fertilizer to Turf, specialized Turf, or Landscape Plant.

*"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 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, or a 3-day Cone of Uncertainty is in effect for any portion of Pasco County, issued by the National Weather Service, or if heavy rain is expected.

"Pasco County Approved Best Management Practices Training Program" means a training program approved per 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, 2008," as revised, and approved by the Pasco County Administrator.

"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.

#### APPLICABILITY

This Ordinance shall be applicable to and shall regulate any and all Applicators of Fertilizer and areas of application of Fertilizer within the area of Pasco 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.

#### 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.

#### 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, 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. If more stringent (MUNICIPALITY / COUNTY) 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 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.

## 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 (MUNICIPALITY / 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 should be taken to prevent the over-spray of aquatic weed products in this zone.

## FERTILIZER CONTENT AND APPLICATION RATES:

(a) Fertilizers Applied to Turf and/or Landscape Plants within Pasco County shall be applied in accordance with requirements and directions provided by Rule 5E-1.003(2), Florida Administrative Code, *Labeling Requirements For Urban Turf Fertilizers*.

(b) 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.

(c) Nitrogen or phosphorus fertilizer shall not be applied to turf or landscape plants except as provided in (a) 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.

## 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.

**MANAGEMENT OF GRASS CLIPPINGS 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.

**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, Section 823.14 Florida Statutes;
- (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.

TRAINING:

(a) All commercial and institutional applicators of fertilizer within the (un)incorporated area of Pasco 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 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.

LICENSING OF COMMERCIAL APPLICATORS

(a) all commercial applicators of fertilizer within the un-incorporated area of Pasco County 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 Pasco County 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 Pasco County Tax Collector's office within 180 days of the effective date of this ordinance.

(b) All commercial applicators of fertilizer within the unincorporated area of Pasco 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(18) F.A.C.

(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 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 Pasco County Tax Collector's Office.

#### ENFORCEMENT

The County is specifically authorized to take any and all steps and actions that are legally available to the County, including any court proceedings as are authorized by law, against any person who fails, neglects, or refuses to comply with this Article, or who knowingly furnishes false information or information that is not supported by scientific data to the County or any official in charge of the administration of this Article on any matter relating to the administration of this Article. Each day of a violation shall constitute a separate offense. The County may elect any or all of the available remedies concurrently, and the pursuance of one shall not preclude the pursuance of another, or any other remedy allowed by law. Funds generated by penalties imposed under this Article shall be used by Pasco County for the administration and enforcement of section 403.9337, Florida Statutes, and the corresponding sections of this ordinance, and to further water conservation and nonpoint pollution prevention activities.

**SECTION 3. REPEALER**

Any Ordinance provisions in conflict herewith are hereby repealed only to the extent of such conflict.

**SECTION 4. SEVERABILITY**

It is declared to be the intent of the Pasco County Board of County Commissioners that if any section, subsection, sentence, clause, or provision of this Ordinance shall be declared invalid, the remainder of this Ordinance shall be construed as not having contained said section, subsection, sentence, clause, or provisions and shall not be affected by such holding.

**SECTION 5. APPLICABILITY**

This Ordinance shall apply in all of unincorporated Pasco County, Florida, and in the incorporated areas of Pasco County to extent provided for in interlocal agreements with the cities of the County.

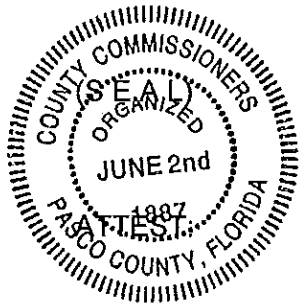
**SECTION 6. INCLUSION IN CODE**

It is the intent of the Pasco County Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Pasco County Code of Ordinances as Article IV of Chapter 42, and that the sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," "regulation," or such other appropriate word or phrase in order to accomplish such intentions.

**SECTION 7. EFFECTIVE DATE**

A certified copy of this Ordinance shall be filed with the Department of State by the Clerk to the Pasco County Board of County Commissioners within ten (10) days after adoption of this Ordinance, and this Ordinance shall take effect upon the date of filing.

ADOPTED with a quorum present and voting this 22<sup>nd</sup> day of July, 2014.



BOARD OF COUNTY COMMISSIONERS  
OF PASCO COUNTY, FLORIDA

BY: Paula S. O'Neil  
PAULA S. O'NEIL, Ph.D.  
CLERK & COMPTROLLER

BY: Jack Mariano  
JACK MARIANO  
CHAIRMAN

JUL 22 2014

5