

## Chapter 14 – ENVIRONMENTAL PROTECTION

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### **ARTICLE III. - FERTILIZER USE**

#### **Section 14-301. – Purpose and Intent.**

This Article regulates the proper use of Fertilizers by any Applicator; requires proper training of Commercial and Institutional Fertilizer Applicators establishes a Prohibited Application Period; specifies allowable Fertilizer Application rates and methods, fertilizer-free zones, Low Maintenance Zones, and exemptions. The Article requires the use of Best Management Practices 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 the Town's natural and constructed stormwater systems, canals, lakes, and other water bodies. Collectively, these water bodies are an asset critical to the environmental, recreational, cultural and economic well-being of the Town's residents and the health of the public. Regulation of nutrients, including both phosphorous and nitrogen contained in Fertilizer, will help improve and maintain water and habitat quality.

#### **Section 14-302. – Definitions.**

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning.

*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 Town.

*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 482.1562(9) F.S., 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.

*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, 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 surface waters 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, organizations, 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 (two inches or more) is likely.

Restricted Application Period means June 1 to September 30.

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.

Surface Waters means waters on the surface of the earth, including the Atlantic Ocean, bays, lakes, ponds, and canals.

Turf, Sod, or Lawn means a piece of grass-covered soil held together by the roots of the grass.

### **Section 14-303. – Applicability.**

This Article shall be applicable to and shall regulate any and all Applicators of Fertilizer and areas of Application of Fertilizer within the Town, unless such Applicator is specifically exempted by the terms of this Article.

### **Section 14-304. – Timing of Fertilizer Application**

- (a) No Applicator shall apply Fertilizers containing nitrogen and/or phosphorous to Turf and/or landscape plants during the Prohibited Application Period, or to Saturated Soils. In addition, Fertilizer containing nitrogen or phosphorous shall not be applied to Turf or Landscape Plants during the Restricted Application Period.
- (b) Fertilizer shall only be applied to actively growing Turf that is not dormant, dead or unestablished.
- (c) Fertilizer containing nitrogen or phosphorous 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 hydroseeding for temporary or permanent erosion control in an emergency situation or in accordance with the Stormwater Pollution Prevention Plan for that site.

### **Section 14-305. – Fertilizer Free Zones.**

Fertilizer shall not be applied within fifteen (15) feet of any pond, lake, canal, wetland as defined by the Florida Department of Environmental Protection (Chapter 62-340, Florida Administrative Code),

or from the top of a seawall. If more stringent 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 needed to allow the plants to become well established. Caution shall be used to prevent direct deposition of Fertilizer into the water.

#### **Section 14-306. – Low Maintenance Zones.**

A voluntary ten (10) foot Low Maintenance Zone is strongly recommended, but not mandated, from any pond, lake, canal, 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 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.

#### **Section 14-307. – Fertilizer Application.**

- (a) Fertilizers applied to Turf and/or landscape plants within the Town shall be applied in accordance with directions provided by Rule 5E-1.003(2), Florida Administrative Code, Labeling Requirements for Urban Turf Fertilizers.
- (b) Fertilizer shall be applied to Turf and/or landscape at the lowest rate necessary. Nitrogen shall not be applied at an application rate greater than 0.5 lbs of readily available nitrogen per one thousand (1,000) square feet at any one time based on the soluble fraction of formulated fertilizer, with no more than four (4) pounds of nitrogen per one thousand (1,000) square feet applied in any calendar year.
- (c) No fertilizer containing phosphorus shall be applied to turf and/or landscape plants in the Town, except where a phosphorus deficiency has been demonstrated in the soil underlying the turf and/or landscape plants by a soil analysis test performed by a State of Florida certified laboratory. Any person who obtains a soil analysis test showing a phosphorus deficiency and who wishes to apply phosphorus to turf and/or landscape plants shall provide a copy of the test results to the Town prior to the application of phosphorus.
- (d) The nitrogen content of Fertilizer applied to Turf or landscape plans within the Town shall contain at least 50% slow release, controlled release, timed release, slowly available, or water insoluble nitrogen per guaranteed analysis label. Caution shall be used to prevent direct deposition of nutrients in the water.

#### **Section 14-308. – 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 systems or water bodies.

**Section 14-309. – 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, water bodies, wetlands, or sidewalks or roadways. Any material that is accidentally so deposited shall be immediately removed to the maximum extent practicable.

**Section 14-310. – Exemptions.**

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

- (a) A property owner who seeks and is granted a waiver of the provisions of this Article for the personal, non-commercial Application of non-conforming Fertilizer to the property the individual is occupying. In considering a request for a waiver of the enforcement of this Section, the Town will consider the care of newly planted landscaping, the requirements of ornamental and/or other specialty plants, and/or any special individual landscaping needs of a given property. This waiver may be granted administratively upon application to the Town Manager. Such a waiver shall be valid for 12 months and may be renewed upon application to the Town.
- (b) The provisions of this Article shall not apply to Town owned, leased, or maintained athletic fields.

**Section 14-311. – Training.**

- (a) Private, non-commercial Applicators are required to follow the recommendations of the University Florida IFAS *Florida Yards and Neighborhoods* program when applying Fertilizers.

**Section 14-312. – Licensing of Commercial Applicators.**

- (a) All Commercial Applicators of Fertilizer within the Town's jurisdiction 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.
- (b) Prior to a business 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), the business 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 obtained upon successful completion of 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 Landscape<sup>TM</sup>" program, or an approved equivalent. Upon request, a business shall provide proof of completion of the program to the Town Manager or designee.

**Section 14-313. – Enforcement; Penalties.**

- (a) Following adoption of this Article, the Town shall engage in public education efforts to inform the public of the provisions of this Article.
- (b) Beginning July 1, 2020, the Town's Code Compliance Division shall enforce all provisions of this Article.
- (c) Violations of the provisions of this Article shall be enforced through Chapter 8 of the Town Code and shall be subject to the following penalties:
  - a. First violation: a fine of \$100.00

- b. Second violation: a fine of \$250.00.
- c. Third and subsequent violations: a fine of \$500.00.
- (d) Each day in violation of these regulations within a three hundred sixty-five (365) day period, beginning with the date of the first violation, shall constitute a separate offense. The Town Council may take any other appropriate legal action, including but not limited to emergency injunctive action, to enforce the provisions of this code.
- (e) In addition to any Applicator, Commercial Fertilizer Applicator, or Institutional Applicator, the owner of any real property upon which any Fertilizer regulated herein is applied shall be responsible for compliance with this Article to the same extent as the Applicator, Commercial Fertilizer Applicator, or Institutional Applicator.

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#### **ARTICLE IV. – MANGROVE PROTECTION**

##### **Sec. 14-401. – Mangrove Protection.**

All new development of property abutting coastal wetlands shall plant mangrove trees along the side of the property abutting such wetlands along the wetland delineation line as defined by Miami-Dade County DERM. For purposes of this section, mangrove trees shall mean any of the following species, regardless of size, including mangrove trees as small as rooted seedlings: *Avicennia germinans* (black mangrove), *Rhizophora mangle* (red mangrove), *Laguncularia racemosa* (white mangrove), *Conocarpus erectus* (buttonwood). Notwithstanding the foregoing, mangrove tree shall not include seedlings smaller than 3—5 leaf stage rooted seedlings.