

2 **AN ORDINANCE AMENDING CHAPTER 270, “WATER AND SEWER”,**
 4 **SEMINOLE COUNTY CODE, BY ADDING PART 12, “PROPER USE OF**
 6 **FERTILIZERS”; REGULATING THE PROPER USE OF FERTILIZERS**
 8 **BY ANY APPLICATOR; PROVIDING LEGISLATIVE FINDINGS;**
 10 **PROVIDING DEFINITIONS: PROVIDING FOR APPLICABILITY**
 12 **WITHIN SEMINOLE COUNTY; ESTABLISHING A PROHIBITED**
 14 **APPLICATION PERIOD; SPECIFYING ALLOWABLE FERTILIZER**
 16 **APPLICATION RATES AND METHODS, FERTILIZER-FREE ZONES,**
 18 **LOW MAINTENANCE ZONES, AND EXEMPTIONS; REQUIRING THE**
 20 **USE OF BEST MANAGEMENT PRACTICES WHICH PROVIDE**
 22 **SPECIFIC MANAGEMENT GUIDELINES TO MINIMIZE NEGATIVE**
 24 **SECONDARY AND CUMULATIVE ENVIRONMENTAL EFFECTS**
 ASSOCIATED WITH THE MISUSE OF FERTILIZERS WHICH HAVE
 BEEN OBSERVED IN AND ON SEMINOLE COUNTY’S NATURAL AND
 CONSTRUCTED STORMWATER CONVEYANCES, RIVERS, CREEKS,
 CANALS, SPRINGS, LAKES AND OTHER WATERBODIES;
 REQUIRING PROPER TRAINING OF COMMERCIAL AND
 INSTITUTIONAL FERTILIZER APPLICATORS; ESTABLISHING
 TRAINING AND LICENSING REQUIREMENTS; PROVIDING FOR
 ENFORCEMENT AND PENALTIES; AMENDING CHAPTER 53, “CODE
 ENFORCEMENT”, SEMINOLE COUNTY CODE, TO PROVIDE FOR
 PENALTIES; PROVIDING FOR CODIFICATION IN THE SEMINOLE
 COUNTY CODE; PROVIDING FOR SEVERABILITY; AND PROVIDING
 AN EFFECTIVE DATE.

26 **WHEREAS,** pursuant to 33 U.S.C. § 1313(d) (2016) of the Federal Clean Water Act and
 the resulting Florida Impaired Waters Rule, Chapter 62-303, Florida Administrative Code (2016),
 28 the Florida Department of Environmental Protection (“FDEP”) has classified specific waterbodies
 in Seminole County as “impaired” as a result of the presence of excess nutrients; and

30 **WHEREAS,** the Seminole County National Pollutant Discharge (NPDES) Municipal
 Separate Storm Sewer System (MS4) Permit No. FLS000038, issued by the Florida Department
 32 of Environmental Protection under authority delegated to it by the United States Environmental
 Protection Agency, mandates the adoption of a fertilizer ordinance that includes all of the
 34 requirements set forth in the Florida Department of Environmental Protection’s Model Ordinance

for Florida-Friendly Fertilizer Use on Urban Landscapes pursuant to Section 403.9337, Florida Statutes (2016), by December 31, 2013 (the “Model Ordinance”); and

WHEREAS, the Florida Department of Environmental Protection has informally extended the time for Seminole County to adopt the subject ordinance with the understanding that Seminole County will adopt the ordinance as soon as practical; and

WHEREAS, it is the intent of the Board of County Commissioners to adopt the instant Ordinance consistent with the terms of the Model Ordinance and the principle purposes of the instant Ordinance are to receive credits and otherwise comply with all applicable Total Maximum Daily Loads (TMDLs) and Basin Management Action Plans (BMAPs),

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

Section 1. Chapter 270, “Water and Sewer”, Seminole County Code is hereby amended by the addition of Part 12, “Proper Use of Fertilizers”, which reads as follows:

PART 12. PROPER USE OF FERTILIZERS

Sec. 270.461. 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 Board of County Commissioners hereby determines that the use of Fertilizers creates a risk to contributing to adverse effects on surface and ground water. Accordingly, the county commission 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. 270.462. Purpose and Intent. This Part 12: (a) regulates the proper use of Fertilizers by any Applicator; (b) requires proper training of commercial and Institutional Fertilizer Applicators; (c) establishes training and licensing requirements; (d) establishes a Prohibited

Application Period; and (e) specifies allowable Fertilizer Application rates and methods, Fertilizer free zones, Low Maintenance Zones, and exemptions. This Part 12 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, 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. 270.463. Definitions. For the purposes of this Part 12, the following terms have the meanings set forth in this Section. Words not defined in this Part 12 have the meaning as provided in other Sections of this Code, and otherwise have the meaning provided by common and ordinary use:

Application or *Apply*. The actual physical deposit of Fertilizer to Turf, Landscape Plants, or both.

Applicator. Any Person who Applies Fertilizer on Turf, Landscape Plants, or both.

Approved Best Management Practices Training Program. A training program approved pursuant to Section 403.9338, *Florida Statutes* (2016), as this statute may be amended from time to time, 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 this document may be amended from time to time.

Best Management Practices. Turf and landscape practices or a combination of practices
84 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
86 improving water quality, conserving water supplies and protecting natural resources.

Code Enforcement Officer, Official or Inspector. Any designated employee or agent who
88 has the duty to enforce codes and ordinances.

Commercial Fertilizer Applicator. Any Person who Applies Fertilizer for payment or
90 other consideration to property not owned by the Person or firm Applying the Fertilizer or the
employer of the Applicator, except as provided in Section 482.1562(9), *Florida Statutes* (2016),
92 as this statute may be amended from time to time.

Fertilize. The act of Applying Fertilizer to Turf, specialized Turf, or Landscape Plants.

Fertilizer. Any substance or mixture of substances that contains one or more recognized
94 plant nutrients and promotes plant growth, or controls soil acidity or alkalinity, or provides other
plant nutrients and promotes plant growth, or controls soil acidity or alkalinity, or provides other
96 soil enrichment, or provides other corrective measures to the soil. *Fertilizer* does not include
unmanipulated peat or compost that make no claims as described in the preceding sentence.

Guaranteed Analysis. The percentage of plant nutrients or measures of neutralizing
98 capability claimed to be present in a Fertilizer.

Institutional Fertilizer Applicator. Any Person, other than a private, non-commercial or
100 a Commercial Fertilizer Applicator (unless such definitions also apply under the circumstances),
that Applies Fertilizer for the purpose of maintaining Turf, Landscape Plants, or both. *Institutional*
102 *Fertilizer Applicators* include, but are not limited to, owners, managers or employees of public
Fertilizer Applicators include, but are not limited to, owners, managers or employees of public
104 lands, schools, parks, religious institutions, utilities, industrial, or business sites and any residential
properties maintained in condominium or other form of common ownership.

Landscape Plant. Any native or exotic tree, shrub, or groundcover (excluding Turf).
106

108 Low Maintenance Zone. An area a minimum of ten (10) feet wide adjacent to water
courses that is planted and managed in order to minimize the need for Fertilization, watering,
mowing, and related activities.

110 Person. Any natural Person, business, corporation, limited liability company, partnership,
limited partnership, association, club, organization, or any other group of people acting as an
112 organized entity.

Prohibited Application Period. The time period during which a Flood Watch or Warning,
114 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
116 World Meteorological Organization as rainfall greater than or equal to two (2) inches in a twenty-
four (24) hour period, is likely.

118 Reclaimed Water. A high quality alternative water source that has received at least
secondary treatment and is reused after being discharged from a domestic wastewater treatment
120 facility. Moreover, there are some constituents, such as nitrogen and phosphorus found in recycled
water. These constituents are beneficial for plant growth, and will serve as an additional
122 “Fertilizing” source.

Saturated Soil. A soil in which the voids are filled with water. Saturation does not require
124 flow. For the purposes of this Part 12, soils are considered saturated if standing water is present or
the pressure of a Person standing on the soil causes the release of free water.

126 Slow Release, Controlled Release, Timed Release, Slowly Available, or Water Insoluble
Nitrogen. Nitrogen in a form that delays its availability for plant uptake and use after Application
128 or that extends its availability to the plant longer than a reference rapid or quick release product.

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

130 **Sec. 270.464. Applicability.** This Part 12 applies to and regulates any and all
Applicators of Fertilizer and areas of Application of Fertilizer within the unincorporated areas of
132 the County, unless such Applicator is specifically exempted by the terms of this Part 12. This Part
12 operates prospectively only, and does not impair any existing contracts

134 **Sec. 270.465. Timing of Fertilizer Application.**

(a) No Applicator may Apply Fertilizers containing nitrogen, phosphorus, or both to
136 Turf, Landscape Plants, or both during the Prohibited Application Period, or to Saturated Soils.

(b) Fertilizer containing nitrogen or phosphorus may not be Applied before seeding or
138 sodding a site, and may 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
140 accordance with an adopted stormwater pollution prevention plan for that site.

(c) Fertilizer containing nitrogen or phosphorus may not be Applied to Turf or
142 Landscape Plants from June 1 through September 30 of each year.

Sec. 270.466. Fertilizer Free Zones. Fertilizer may not be Applied within fifteen (15)
144 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 (2016), as this regulation
146 may be amended from time to time, or from the top of a seawall. Newly planted Turf, Landscape
Plants, or both may be Fertilized in this zone only for a sixty (60) day period beginning thirty (30)
148 days after planting if needed to allow the plants to become well established. Caution must be used
to prevent direct deposition of nutrients into the water.

Sec. 270.467. Low Maintenance Zones. A voluntary ten (10) foot Low Maintenance
150 Zone is strongly recommended, but not mandated, from any pond, stream, water course, lake,
152 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

154 vegetative material may be deposited or left remaining in this zone or deposited in the water. Care
155 must be taken to prevent the over-spray of aquatic weed products in this zone.

156 **Sec. 270.468. Fertilizer Content and Application Rates.**

157 (a) Fertilizers Applied to Turf must be Applied in accordance with requirements and
158 directions provided by Rule 5E-1.003, Florida Administrative Code, “Fertilizer Label
159 Requirements for Urban Turf, Sports Turf or Lawns” (2016), as this regulation may be amended
160 from time to time.

161 (b) Nitrogen or phosphorus Fertilizer may not be Applied to Turf or Landscape Plants
162 except as provided in subsection (a) for Turf, or in the University of Florida/IFAS
163 recommendations for Landscape Plants, vegetable gardens, and fruit trees and shrubs, unless a soil
164 or tissue deficiency has been verified by an approved test. Soil and tissue tests for phosphorus are
165 normally done by UF/IFAS or another accredited laboratory. IFAS recommendations are available
166 from the County Extension Service or http://solutionsforyourlife.ufl.edu/lawn_and_garden/.

167 (c) No Fertilizer containing phosphorus may be Applied to Turf, Sod, Lawns, or
168 Landscape Plants unless a soil or plant tissue deficiency is verified by a testing methodology
169 approved by the University of Florida, Institute of Food and Agricultural Sciences. If a deficiency
170 is verified, the Application of Fertilizer containing phosphorus must adhere to the rates and
171 directions for the appropriate Region of Florida, as adopted by Florida Administrative Code Rule.
172 This subsection (c) controls over any inconsistent provisions in subsections (a) and (b) above
173 regarding phosphorus.

174 (d) Fertilizers containing nitrogen Applied to Turf or landscaping plants within
175 Seminole County must contain no less than fifty percent (50%) Slow Release Nitrogen per
176 Guaranteed Analysis Label. If the necessary product is available on the local commercial market
on March 1, 2020, then this requirement will increase to no less than sixty-five percent (65%) Slow

178 Release Nitrogen effective on this date. This subsection (d) controls over any inconsistent
provisions in subsections (a) and (b) above regarding nitrogen.

180 (e) The above referenced Application rates must be reduced appropriately on
properties where reclaimed wastewater is used for irrigation based on available nutrients in the
182 Reclaimed Water as reported by the provider of the Reclaimed Water.

Sec. 270.469. Application Practices.

184 (a) Spreader deflector shields are required when Fertilizing by rotary or broadcast
spreaders. Deflectors must be positioned such that Fertilizer granules are deflected away from all
186 impervious surfaces, Fertilizer free zones, and water bodies, including wetlands.

(b) Fertilizer must not be Applied, spilled, or otherwise deposited on any impervious
188 surfaces.

(c) Any Fertilizer Applied, spilled, or deposited, either intentionally or accidentally, on
190 any impervious surface must be immediately and completely removed to the greatest extent
practicable.

192 (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
194 container.

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

Sec. 270.470. Management of Grass Clippings and Vegetative Matter. In no case
198 may grass clippings, vegetative material, vegetative debris, or any combination of them be washed,
swept, or blown off into stormwater drains, ditches, conveyances, water bodies, wetlands, or
200 sidewalks, or roadways. Any material that is accidentally so deposited must be immediately
removed to the maximum extent practicable.

202 **Sec. 270.471. Exemptions.** This Part 12 does not apply to:

(a) Bona fide farm operations as defined in Section 823.14, *Florida Statutes* (2016),
204 “Florida Right to Farm Act”, as this statute may be amended from time to time.

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

(c) Any lands used for bona fide scientific research, including, but not limited to,
208 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
210 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
212 Fields” (2016), as this regulation may be amended from time to time.

(e) Any fruit or vegetable gardens, provided they are not within fifteen (15) feet of any
214 waterbody or wetland.

Sec. 270.472. Training.

(a) All commercial and Institutional Fertilizer Applicators shall abide by and
216 successfully complete the six-hour training program in the *Florida-Friendly Best Management*
218 *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*
220 *Landscapes* program, or an approved equivalent.

(b) Private, non-commercial Applicators are encouraged to follow the
222 recommendations of the University of Florida/IFAS *Florida Friendly Landscapes* program when
Applying Fertilizers.

224 **Sec. 270.473. Licensing of Commercial Fertilizer Applicators.**

226 (a) By September 30, 2014, all Commercial Fertilizer Applicators were required by
228 state law to 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.
230 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
232 Fertilizer to Turf, Landscape Plants, or both. Commercial Fertilizer Applicators with an existing
Local Business Tax receipt for any category of occupation which may Apply any Fertilizer to Turf,
234 Landscape Plants, or both shall provide proof of completion of the program within thirty (30) days
after completing the program as required by state law prior to September 30, 2014.

236 (b) After September 30, 2014, all Commercial Fertilizer Applicators were required by
state law to have and carry in their possession at all times when Applying Fertilizer, evidence of
238 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 (2016), as this
240 regulation may be amended from time to time.

(c) By September 30, 2014, all businesses Applying Fertilizer to Turf, Landscape
242 Plants, or both (including but not limited to residential Lawns, commercial properties, and multi-
family and condominium properties) were required by state law to ensure that at least one
244 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
246 may Apply any Fertilizer to Turf, Landscape Plants, or both shall provide proof of completion of
the program by at least one employee prior to the business owner obtaining a new Local Business

248 Tax Receipt. Business owners for any category of occupation which may Apply any Fertilizer to
Turf, Landscape Plants, or both with an existing Local Business Tax Receipt shall provide proof
250 of completion of the program by at least one employee within thirty (30) days after completing the
program and prior to September 30, 2014.

252 **Sec. 270.474. Enforcement, Penalties and Legal Proceedings.**

(a) Any Person found to be in violation of the provisions of this Part 12 may be subject
254 to any applicable civil enforcement mechanisms available to the County, including, but not limited
to: injunctive relief; referral to the Seminole County Code Enforcement Board or Code
256 Enforcement Magistrate; or issuance of a citation pursuant to Section 53, Part 2, of this Code.

(b) Violations of this Part 12 can present a serious threat to public welfare and are
258 potentially irreparable or irreversible. Therefore, pursuant to Section 53.29(b) of this Code and
Section 162.21(3)(b), Florida Statutes (2016), as these provisions may be amended from time to
260 time, a County Code Enforcement Officer may immediately issue a citation to any Person in
violation of this Part 12 if the Code Enforcement Officer has reason to believe that the violation
262 presents a serious threat to the public health, safety, or welfare, or if the violation is irreparable or
irreversible.

(c) Each incidence of violation under this Part 12 constitutes a separate violation and
264 offence and a separate offence will be deemed committed on each day during or on which a
violation occurs or continues.
266

(d) In addition to the other remedies provided in this Section, the County is authorized
268 to make application in a court of appropriate jurisdiction for an injunction restraining any person
from violating, or continuing to violate any provisions of this Part 12. Further, the County may
270 avail itself of any other legal or equitable remedy available to it in the enforcement of any provision
of this Part 12 or any provision of any resolution enacted pursuant to this Part 12.

272 (e) The County may elect to take any or all of the above remedies concurrently, and
the pursuit of one does not preclude the pursuit of another.

274 (f) Any fines or other funds received as a result of enforcement under this Part 12
which are not used for specific purposes set forth in this Part 12, as it may be amended from time
276 to time, must be deposited in the General Fund of the County in the penalty, fine and forfeiture
account.

278 **Section 2.** Chapter 53, “Code Enforcement,” of the Seminole County Code is hereby
amended to read as follows:

280 * * *

Section 53.32. Schedule of Violations and Penalties.

282 (a) Civil infractions of County codes and ordinances for which citations may be issued
include, but are not limited to:

284 * * *

CLASS I

286 * * *

(13) S.C.C. Chapter 270, Part 12 Improper Use of Fertilizers.

288 * * *

Section 3. Codification. It is the intention of the Board of County Commissioners that
290 the provisions of this Ordinance will become and be made a part of the Seminole County Code,
and that the word “ordinance” may be changed to “section”, “article”, or other appropriate word
292 or phrase and the sections of this Ordinance may be renumbered or re-lettered to accomplish such
intention; providing, however, that the Sections 3, 4 and 5 of this Ordinance will not be codified.

294 **Section 4. Severability.** If any provision of this Ordinance or the application thereof to
any person or circumstance is held invalid or is subject to a state moratorium, it is the intent of the

296 Board of County Commissioners that such invalidity or state moratorium will not affect other
provisions or applications of this Ordinance which can be given effect without the invalid
298 provision or application and, to this end, the provisions of this Ordinance are declared severable.

Section 5. Effective date. This Ordinance takes effect upon filing a copy of this
300 Ordinance with the Department of State by the Clerk of the Board of County Commissioners;
provided, however, no citations, notices to appear, notices of violation or other enforcement
302 procedures may be instituted until _____, 2017.

BE IT ORDAINED by the Board of County Commissioners of Seminole County, this
304 _____ day of _____, 2017.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

GRANT MALOY
Clerk to the Board of
County Commissioners of
Seminole County, Florida

JOHN HORAN, Chairman

DGS/sjs
2/20/17
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