

**ORDINANCE NO. 2022-02**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER SPRINGS, SEMINOLE COUNTY, FLORIDA; AMENDING CHAPTER 19, ARTICLE IX OF THE WINTER SPRINGS CODE OF ORDINANCES, REGULATING THE PROPER USE OF FERTILIZERS; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, INCORPORATION INTO THE CODE, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, the City is granted the authority, under § 2(b), Art. VIII of the State Constitution, to exercise any power for municipal purposes, except when expressly prohibited by law; and

**WHEREAS**, pursuant to 33 U.S.C. § 1313(d) of the Federal Clean Water Act and the resulting Florida Impaired Waters Rule, Chapter 62-303, Florida Administrative Code, 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

**WHEREAS**, the Seminole County National Pollutant Discharge (NPDES) Municipal Separate Storm Sewer System (MS4) Permit No. FLS000038, issued by the Florida Department 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 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 (the “Model Ordinance”); and

**WHEREAS**, via Ordinance 2017-08, on August 14, 2017, the City Commission adopted a new Article IX, Chapter 19 of the City Code, which adopted the Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes as required by state law; and

**WHEREAS**, it is the intent of the City Commission to amend Chapter 19, Article IX to impose certain more stringent requirements related to the application of fertilizers generally consistent with the terms of Seminole County Ordinance 2017-6, which has been adopted by all other cities in Seminole County; and

**WHEREAS**, the City Commission of the City of Winter Springs, Florida, hereby finds this ordinance to be in the best interests of the public health, safety, and welfare of the citizens of Winter Springs.

**NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF WINTER**

**SPRINGS HEREBY ORDAINS, AS FOLLOWS:**

**Section 1.**     **Recitals.** The foregoing recitals are hereby fully incorporated herein by reference as legislative findings of the City Commission of Winter Springs.

**Section 2.**     **Code Amendment.** The City of Winter Springs Code of Ordinances, Chapter 19, is hereby amended as follows (underlined type indicates additions and ~~strikeout~~ type indicates deletions, while asterisks ( \* \* \* ) indicate a deletion from the Ordinance of text existing in Chapter 19. It is intended that the text in Chapter 19 denoted by the asterisks and set forth in this Ordinance shall remain unchanged from the language existing prior to adoption of this ordinance):

**Chapter 19 – UTILITIES**

\* \* \*

**ARTICLE IX. – PROPER USE OF FERTILIZERS**

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**Sec. 19-312. Definitions.**

For the purposes of this article IX, the following terms have the meanings set forth in this section unless the context clearly indicates otherwise.

*Administrator* means the city manager, or an administrative official of the city designated by the city manager 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 the city.

*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 administrator.

*Best management practices* means turf and landscape practices or a 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 who has the duty to enforce codes and ordinances enacted by the city.



*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 (1) 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. *Fertilizer does not include unmanipulated peat or compost that make no claims as described in the preceding sentence.*

*Guaranteed analysis* means the percentage of plant nutrients or measures of neutralizing capability claimed to be present in a fertilizer.

*Institutional fertilizer 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 fertilizer applicators shall include, but are not 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 or other form of 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, and related activities.

*Person* means any natural person, business, corporation, limited liability company, partnership, limited partnership, association, club, organization, and/or any other 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, as defined by the World Meteorological Organization as rainfall greater than or equal to two (2) inches in a twenty-four (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 article IX, 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.

*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 F.S. § 570.02.

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#### **Sec. 19-314. Timing of fertilizer application.**

(a) No applicator may apply fertilizers containing nitrogen, phosphorus, or both to turf and/or landscape plants during the prohibited application period, or to saturated soils.

(b) Fertilizer containing nitrogen or phosphorus may not be applied before seeding or 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 accordance with an adopted stormwater pollution prevention plan for that site.

(c) Fertilizer containing nitrogen or phosphorus may not be applied to turf or landscape plants from June 1 through September 30 of each year.

#### **Sec. 19-315. Fertilizer free zones.**

Fertilizer may not be applied within ~~ten (10)~~ fifteen (15) feet of any pond, stream, watercourse, lake, canal, or wetland as defined by the state 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 three (3) feet shall be maintained. If more stringent City Code regulations apply, this provision does not relieve the requirements to adhere to more stringent regulations.~~ Newly planted turf and/or landscape plants may be fertilized in this zone only for a sixty (60) day period beginning thirty (30) days after planting if needed to allow the plants to become well established. Caution shall be used to prevent direct deposition of nutrients into the water.

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#### **Sec. 19-317. Fertilizer content and application rates.**

(a) Fertilizers applied to turf 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 thirty (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.~~

- (b) Nitrogen or phosphorus Fertilizer may not be applied to turf or landscape plants except as provided in subsection (a) for turf, or in the University of Florida/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. Soil and tissue tests for phosphorus are normally done by UF/IFAS or another accredited laboratory. IFAS recommendations are available from the County Extension Service or [http://solutionsforyourlife.ufl.edu/lawn\\_and\\_garden/](http://solutionsforyourlife.ufl.edu/lawn_and_garden/).
- (c) No fertilizer containing phosphorus may be applied to turf, sod, lawns, or landscape plants unless a soil or plant tissue deficiency is verified by a testing methodology approved by the University of Florida, Institute of Food and Agricultural Sciences. If a deficiency is verified, the application of fertilizer containing phosphorus must adhere to the rates and directions for the appropriate Region of Florida, as adopted by Florida Administrative Code Rule. This subsection (c) controls over any inconsistent provisions in subsections (a) and (b) above regarding phosphorus.
- (d) Fertilizers containing nitrogen applied to turf or landscaping plants within Seminole County must contain no less than sixty-five percent (65%) Slow Release Nitrogen per Guaranteed Analysis Label. This subsection (d) controls over any inconsistent provisions in subsections (a) and (b) above regarding nitrogen.

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#### **Sec. 19-322. Licensing of commercial fertilizer applicators.**

- (a) By September 30, 2014, all commercial fertilizer applicators were required by 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. 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 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, 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.
- (b) All commercial applicators or fertilizer within the city, shall have and carry in their possession at all times when applying fertilizer, evidence of certification by the state

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 (1) 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 tax collector's office

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**Section 3.**     **Repeal of Prior Inconsistent Ordinances and Resolutions.** All prior inconsistent ordinances and resolutions adopted by the City Commission, or parts of prior ordinances and resolutions in conflict herewith, are hereby repealed to the extent of the conflict.

**Section 4.**     **Incorporation Into Code.** This Ordinance shall be incorporated into the Winter Springs City Code and any section or paragraph, number or letter, and any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical, and like errors may be corrected and additions, alterations, and omissions, not affecting the construction or meaning of this Ordinance and the City Code may be freely made.

**Section 5.**     **Severability.** If any section, subsection, sentence, clause, phrase, word or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

**Section 6.**     **Effective Date.** This Ordinance shall become effective immediately upon adoption by the City Commission of the City of Winter Springs, Florida, and pursuant to the City Charter.

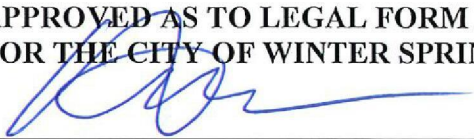
**ADOPTED** by the City Commission of the City of Winter Springs, Florida, in a regular meeting assembled on the 25 day of April, 2022.

  
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KEVIN MCCANN, Mayor

ATTEST:

  
CHRISTIAN GOWAN  
City Clerk

APPROVED AS TO LEGAL FORM AND SUFFICIENCY  
FOR THE CITY OF WINTER SPRINGS ONLY.

  
ANTHONY A. GARGANESE  
City Attorney

First Reading: April 11, 2022  
Legal Ad Published: April 13, 2022  
Effective Date: April 25, 2022

