



CITY OF  
**SANFORD**  
FLORIDA



APPROVED

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Item No. 7.8

**CITY COMMISSION MEMORANDUM 20-150**  
**AUGUST 24, 2020 AGENDA**

**TO:** Honorable Mayor and Members of the City Commission  
**PREPARED BY:** Bilal Iftikhar, Public Works and Utilities Director  
**SUBMITTED BY:** Norton N. Bonaparte, Jr., City Manager  
**SUBJECT:** Adoption of Ordinance No. 4562 for Florida-Friendly Fertilizer Use on Urban Landscapes.

**STRATEGIC PRIORITIES:**

- Unify Downtown & the Waterfront
- Promote the City's Distinct Culture
- Update Regulatory Framework
- Redevelop and Revitalize Disadvantaged Communities

**SYNOPSIS:**

Approval of Ordinance No. 4562 for the implementation of Florida-Friendly fertilizer use on urban landscapes is being requested.

**FISCAL/STAFFING STATEMENT:**

There will be no fiscal impacts to the City.

**BACKGROUND:**

The proposed 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 negative secondary and cumulative environmental effects associated with the misuse of fertilizers. These secondary and cumulative effects have been observed in and on Sanford'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 Sanford's 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.

The City Commission approved the first reading of Ordinance No. 4562 on August 10, 2020.

The City Clerk published notice of the 2<sup>nd</sup> Public Hearing in the Sanford Herald on August 16, 2020.

**LEGAL REVIEW:**

The Assistant City Attorney has drafted the proposed Ordinance and has no legal objection to the action proposed.

**RECOMMENDATION:**

Staff recommends that the City Commission adopt Ordinance No. 4562.

**SUGGESTED MOTION:**

“I move to adopt Ordinance No. 4562.”

Attachment: Ordinance No. 4562.

**Ordinance No. 2020-4562**

**An ordinance of the City of Sanford, Florida relating to the proper use of fertilizers and regulating the proper use of fertilizers by any applicator; providing for definitions; providing for implementing administrative actions such as the adoption of rules; providing for a savings provision; providing for enforcement, penalties and remedies; providing for a savings provision; providing for conflicts; providing for severability; providing for codification as well as the correction of scrivener's errors and providing for an effective date.**

**Whereas,** pursuant to Title 33, United States Code, Section 1313(d) (part 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,** Article II, Section 7(a) of the *Constitution of the State of Florida* provides that:

It shall be the policy of the State to conserve and protect its natural resources and scenic beauty. Adequate provision shall be made by law for the abatement of air and water pollution and of excessive and unnecessary noise and for the conservation and protection of natural resources.

; 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 FDEP's Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes pursuant to Section 403.9337, *Florida Statutes*, by December 31, 2013 (the "Model Ordinance") and the City has similar requirements imposed upon it as a unit of local government with significant stormwater drainage and environmental protection obligations and responsibilities; and

**Whereas,** the FDEP 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,** Seminole County has taken action to comply with all applicable Total Maximum Daily Loads (TMDLs) and Basin Management Action Plans (BMAPs); and

**Whereas,** Seminole County has encouraged the City to enact an ordinance similar to the ordinance enacted by the City; and

**Whereas,** Orange County revised its fertilizer ordinance to exempt licensed lawn care professionals and BMP certified homeowners from the June 1 through September 30 blackout provisions and the City Commission desires to follow that public policy determination; and

**Whereas,** the City Commission understands and recognizes the importance and significance of protecting the environment and the natural resources of the State and City; and

**Whereas,** although the provisions of this Ordinance are not a land development regulations the provisions of this Ordinance are consistent with the goals, objectives and policies of the *Comprehensive Plan of the City of Sanford* and other controlling law; and

**Whereas,** this Ordinance is an exercise of the City of Sanford's powers as a municipality under the provisions of Article VIII, Section 2 of the *Constitution of the State of Florida*; Chapter 163, *Florida Statutes*; Chapter 166, *Florida Statutes*, and other applicable and controlling law such as that referenced herein; and

**Whereas,** the City Commission has taken all actions in accordance with the requirements and procedures mandated by State law and complied, in every respect, with the requirements of law.

**Now, Therefore, Be It Enacted By The People Of The City Of Sanford, Florida:**

**Section 1. Legislative findings and intent.** The City Commission of the City of

Sanford finds and determines as follows:

(a). The City staff report and City Commission agenda memorandum relating to this matter are hereby adopted as if fully set forth herein.

(b). The foregoing recitals (whereas clauses) are hereby adopted as the legislative findings of the City Commission and are incorporated into this Ordinance as if set forth *in haec verba*.

**Section 2. Use of fertilizers.** The following provisions are added to the *Code of Ordinances of the City of Sanford*:

### **PROPER USE OF FERTILIZERS**

#### **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 City Commission hereby determines that the use of fertilizers creates a risk to contributing to adverse effects on surface and ground water. Accordingly, the City 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.

#### **Purpose and Intent.**

- (a). This Ordinance:
- (1). regulates the proper use of fertilizers by any applicator;
  - (2). requires proper training of commercial and Institutional fertilizer applicators;
  - (3). establishes training and licensing requirements;
  - (4). establishes a prohibited application period; and

(5). specifies allowable fertilizer application rates and methods, fertilizer free zones, low maintenance zones, and exemptions.

(b). This 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 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 State, County and City 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.

**Definitions.**

(a). For the purposes of this Ordinance, the following terms have the following meanings:

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

(2). *Applicator* means any person who applies fertilizer on turf, landscape plants, or both.

(3). *Approved Best Management Practices Training Program* means a training program approved pursuant to Section 403.9338, *Florida Statutes*, as this statute may be amended from time-to-time, or any more stringent requirements set forth in this Ordinance 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.

(4). *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.

(5). *Code Enforcement Officer, Official or Inspector* means any designated employee or agent who has the duty to enforce codes and ordinances.

(6). *Commercial Fertilizer Applicator* 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, except as provided in Section 482.1562(9), *Florida Statutes*, as this statute may be amended from time-to-time.

(7). *Fertilize* means the act of applying fertilizer to turf, specialized turf, or landscape plants.

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

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

(10). *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, landscape plants, or both, institutional fertilizer applicators 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.

(11). *Landscape Plant* means any native or exotic tree, shrub, or groundcover (excluding turf).

(12). *Low Maintenance Zone* means an area a minimum of 10' wide adjacent to water courses that is planted and managed in order to minimize the need for fertilization, watering, mowing, and related activities.

(13). *Person* means any natural person, business, corporation, limited liability company, partnership, limited partnership, association, club, organization, or any other group of people acting as an organized entity.

(14). *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 2" in a 24 hour period, is likely.

(15). *Reclaimed Water* means a high quality alternative water source that has received at least secondary treatment and is reused after being discharged from a domestic wastewater treatment 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 fertilizing source.

(16). *Saturated Soil* means soil in which the voids are filled with water. Saturation does not require flow. For the purposes of this Ordinance, 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.

(17). *Slow Release, Controlled Release, Timed Release, Slowly Available, or Water Insoluble Nitrogen* means Nitrogen in a form that delays its availability for plant uptake and use after application or that extends its availability to the plant longer than a reference rapid or quick release product.

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

(b). Words not defined in this Ordinance have the meaning as provided in other Sections of the *City Code*, and otherwise have the meaning provided by a definition in the *Florida Statutes*, the *Florida Administrative Code* or common and ordinary use:

**Applicability.** This Ordinance applies to and regulates any and all applicators of fertilizer and areas of application of fertilizer within the City, unless such applicator is specifically exempted by the terms of this Ordinance. This Ordinance operates prospectively only and does not impair any existing contracts

**Timing of Fertilizer Application.**

(a). It is prohibited and unlawful for an applicator to apply fertilizers containing nitrogen, phosphorus, or both to turf, landscape plants, or both during the prohibited application period, or to saturated soils.

(b). It is prohibited and unlawful for fertilizer containing nitrogen or phosphorus to be

applied before seeding or sodding a site or to 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, or in accordance with an adopted stormwater pollution prevention plan for that site.

(c). It is prohibited and unlawful for fertilizer containing nitrogen or phosphorus to be applied to turf or landscape plants from June 1 through September 30 of each year; provided, however, that, where a phosphorous deficiency has been demonstrated in the soil by means of a soil analysis test performed by a laboratory using the University of Florida's Institute of Food and Agricultural Sciences approved methodology, phosphorous may then be applied at a rate no greater than 0.25 pound of phosphorous per 1,000 square feet per application, not to exceed .5 pound of phosphorous per 1,000 square feet per each calendar year. Any person who obtains such a soil analysis test showing a phosphorous deficiency may apply to the City within 30 days of the date of the result of the test.

**Fertilizer Free Zones.** It is prohibited and unlawful to apply fertilizer within 15' of any pond, stream, watercourse, lake, canal, or wetland as defined by the Rule 62-340, *Florida Administrative Code*, as this regulation 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 60 day period beginning 30 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.

**Low Maintenance Zones.**

A voluntary low maintenance zone, 10' in width, is strongly recommended 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. No mowed or cut vegetative material may be deposited or left remaining in

this zone or deposited in the water. Care must be taken to prevent the over-spray of aquatic weed products in this zone.

#### **Fertilizer Content and Application Rates.**

(a). Fertilizers applied to turf must be applied in accordance with requirements and directions provided by Rule SE-1.003, *Florida Administrative Code*, "Fertilizer Label Requirements for Urban Turf, Sports Turf or Lawns", as this Rule may be amended from time-to-time and it is prohibited and unlawful to otherwise apply fertilizers.

(b). It is prohibited and unlawful to apply nitrogen or phosphorus fertilizer to turf or landscape plants except as provided in subsection (a) for turf, or in the University of Florida/Institute of Food and Agricultural Sciences 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 accomplished by University of Florida Institute of Food and Agricultural Sciences or another accredited laboratory. University of Florida/Institute of Food and Agricultural Sciences recommendations are available from the County Extension Service or [http://solutionsforyourlife.ufl.edu/lawn\\_and\\_garden/](http://solutionsforyourlife.ufl.edu/lawn_and_garden/).

(c). It is prohibited and unlawful to apply fertilizer containing phosphorus 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 a Rule codified in the *Florida Administrative Code*. This subsection controls over any inconsistent provisions in other subsections above regarding phosphorus.

(d). It is prohibited and unlawful to apply fertilizers containing nitrogen to turf or

landscaping plants containing no less than 50% slow release nitrogen per guaranteed analysis label. If the necessary product is determined to be available by the City Manager, or designee, by adoption of a rule, on the local commercial market on March 1, 2020, then this requirement will increase to no less than 65% slow release nitrogen effective on March 1, 2020. This subsection controls over any inconsistent provisions in subsections (a) and (b) regarding nitrogen.

(e). The above referenced application rates must be reduced appropriately, as may be determined by rule adopted by the City Manager, or designee, on properties where ~~reclaimed wastewater is used for irrigation based on available nutrients in the~~ reclaimed water used as reported by the provider of the reclaimed water. It is prohibited and unlawful to otherwise apply fertilizers.

**Application Practices.**

(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 an impervious surfaces, fertilizer free zones, and water bodies, including wetlands and it is prohibited and unlawful to otherwise fail to use spreader deflector shields.

(b). It is prohibited and unlawful to apply, spill or otherwise deposit fertilizers on any impervious surfaces. Any fertilizer applied, spilled, or deposited, either intentionally or accidentally, on any impervious surface must be immediately and completely removed to the greatest extent practicable and it is prohibited and unlawful fail to do so in a manner found acceptable by the City based upon sound professional and environmental practices and principles.

(c). Fertilizer released on an impervious surface shall be immediately contained

and either legally applied to turf or any other legal site, or returned to the original or other appropriate container and it is prohibited and unlawful fail to do so in a manner found acceptable by the City based upon sound professional and environmental practices and principles.

(d). It is prohibited and unlawful to wash, sweep, or blow fertilizers off impervious surfaces into a stormwater drain, ditch, conveyance or water body.

**Management of Grass Clippings and Vegetative Matter.**

It is prohibited and unlawful to wash, sweep or blow grass clippings, vegetative material, vegetative debris, or any combination of them into a stormwater drain, ditch, conveyance, water body, wetland, sidewalk or roadway except for *de minimus* amounts of such materials as found unintentionally deposited as determined acceptable by the City based upon sound professional and environmental practices and principles.

**Exemptions.**

(a). The provisions of this Ordinance do not apply to the following activities if conducted in accordance with controlling law:

- (1). Bona fide farm operations as defined in Section 823.14, *Florida Statutes*, "Florida Right to Farm Act", as this statute may be amended from time-to-time.
- (2). Other properties not subject to or covered under subsection (a) above that have pastures used for grazing livestock.
- (3). Any lands used for bona fide scientific research including, but not limited to, research on the effects of fertilizer use on stormwater, water quality, agronomics, or horticulture.
- (4). Golf courses, athletic fields and Turf managed for active recreation, whose owners 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 Fields", as this regulation may be amended from time-to-time.

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

(b). This Ordinance shall be construed, interpreted and enforced in a manner that is not inconsistent with controlling State law.

### **Training.**

(a). All commercial and institutional fertilizer applicators shall abide by and successfully complete the 6-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/Institute of Food and Agricultural Sciences *Florida-Friendly Landscapes* program or a City-approved equivalent.

(b). Private, non-commercial Applicators are encouraged to follow the recommendations of the University of Florida/Institute of Food and Agricultural Sciences *Florida-Friendly Landscapes* program when Applying Fertilizers.

### **Licensing of Commercial Fertilizer Applicators.**

(a). All commercial fertilizer applicators shall, as required by controlling State law, 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/Institute of Food and Agricultural Sciences *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 . It is prohibited and unlawful to fail to do so.

(b). Commercial fertilizer applicators 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 pursuant to Rule SE-14.117(18), *Florida Administrative Code*, as this regulation may be amended from time-to-time. It is prohibited and unlawful to fail to do so.

### **Section 3. Implementing administrative actions; adoption of administrative rules.**

The City Manager, or designee, shall have the power and authority, to adopt rules to assist in the implementation of this Ordinance.

### **Section 4. Enforcement and penalties.**

(a). The provisions of this Ordinance may be enforced by the City utilizing any legal remedy or code enforcement process available under controlling Florida law. Any continuing violations of the terms, conditions, regulations, limitations or provisions of this Ordinance may be enjoined and restrained by an injunctive order of the Circuit Court in appropriate proceedings instituted for such purposes. The City Attorney is authorized to file such actions with the concurrence of the City Manager may initiate proceedings for the purposes of obtaining an injunction, restraining order, or other appropriate civil proceedings to prevent, enjoin, abate, or remove any violation of this Ordinance.

(b). The penalties for violation of this Ordinance shall be the maximum authorized penalty under the remedy, process or procedure which the City elects to pursue.

(c). A person violating any of the terms, conditions, regulations, limitations or provisions of this Ordinance shall be subject to penalty. Each day that any violation of the terms, conditions, regulations limitations or provisions of this Ordinance shall continue to exist, shall constitute a

separate and distinct offense. Any continuing violations of the terms, conditions, regulations, limitations or provisions of this Ordinance may be enjoined and restrained by an injunctive order of the Circuit Court in appropriate proceedings instituted for such purposes upon a consensus of the City Manager and City Attorney to proceed with regard to such matter.

(d). In addition to any and all remedies set forth in controlling, the cost of recovery, and the cost of removal shall become a special assessment on the property upon which is the subject matter of the action.

**Section 5. Savings.**

The prior actions of the City of Sanford relating to the regulation of landscaping, as well as any and all related matters pertaining thereto, to include, but not be limited to, environmental and natural resource protection, are hereby ratified and affirmed.

**Section 6. Conflicts.**

All ordinances or part of ordinances in conflict with this Ordinance, including, but not limited to, Ordinance Number 2017-4413, are hereby repealed. Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements shall apply.

**Section 7. Severability.**

If any section, sentence, phrase, word, or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word, or portion of this Ordinance not otherwise to be invalid, unlawful, or unconstitutional.

**Section 8. Codification; scrivener's errors.**

(a). The provisions of this Ordinance shall be codified; provided, however, that the provisions of Sections 5, 6, 7, 8 and 9 shall not be codified and the sections of this Ordinance



may be renumbered or relettered and that the word "Ordinance" may be changed to "section", "article" or some other appropriate word or phrase to accomplish codification and the division and provisions of this may be renumbered or relettered.

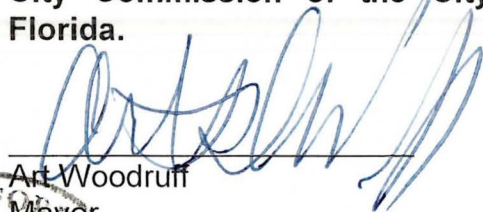
(b). Typographical errors and other matters of a similar nature that do not affect the intent of this Ordinance, as determined by the City Clerk and City Attorney, may be corrected without the need for a public hearing.

**Section 9. Effective Date.**

This Ordinance shall take effect immediately upon passage and adoption.

**Passed and adopted** this 24<sup>th</sup> day of August, 2020.


**City Commission of the City of Sanford,  
Florida.**



Art Woodruff  
Mayor




Attest:



Traci Houchin, MMC, FCRM  
City Clerk

Approved as to form and legality:



William L. Colbert, Esquire  
City Attorney

Lonnie N. Good  
ACA