



**BEFORE THE CITY COMMISSION OF
THE CITY OF STUART, FLORIDA**

ORDINANCE No. 2280-2014

**AN ORDINANCE OF THE CITY OF STUART,
FLORIDA; AMENDING THE CODE OF ORDINANCES
AT ARTICLE VIII, SEC. 20-163; PROVIDING FOR
REGULATIONS REGARDING THE APPLICATION
AND USE OF SOIL FERTILIZERS BY CERTAIN
APPLICATORS; PROVIDING FOR CODIFICATION;
PROVIDING FOR SEVERABILITY; PROVIDING FOR
REPEAL OF ALL ORDINANCE IN CONFLICT;
PROVIDING AN EFFECTIVE DATE; AND FOR
OTHER PURPOSES.**

WHEREAS, there is credible scientific evidence that leaching and runoff of nutrients from improper landscaping techniques, including excessive fertilization practices, contributes to nitrogen and phosphorus pollution in the City's stormwater and drainage conveyances, in the ground water, and in the St. Lucie River and its tributaries; and

WHEREAS, the Florida Department of Environmental Protection has identified the St. Lucie River as "impaired" because of excess nutrients, under the Florida Impaired Waters Rule set forth in Chapter 62-303, Florida Administrative Code; and

WHEREAS, nutrient-laden runoff promotes algae growth in the St. Lucie River and its tributaries; and

WHEREAS, the detrimental effects of nutrient-laden runoff are magnified in a coastal community such as Martin County

WHEREAS, the water quality of the St. Lucie River and its tributaries is critical to environmental, economic and recreational prosperity of the area; and

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WHEREAS, surface water and base flow runoff containing excess nutrients enters into natural and artificial storm water drainage conveyances and natural water bodies; and

WHEREAS, Florida Statutes support the use of guidance documents proposed by the 2010 Florida Department of Environmental Protection Model Fertilizer Ordinance as municipalities develop their own ordinance, and

WHEREAS, the City Commission finds that it is in the interest of the health, safety and welfare of city residents to establish regulations for the proper use of fertilizers that result in the reduction of nitrogen and phosphorus infiltration into ground and surface waters.

NOW THEREFORE, be it ordained by the City Commission of the City of Stuart, as follows:

SECTION 1. Chapter 20, Environment, of the Code of Ordinances, City of Stuart, Florida, is hereby amended by adding an Article VII. Fertilizer, to read in its entirety as follows:

Sec. 20-160. Definitions.

As used in this article, the following terms shall have the meanings set forth in this section unless the context clearly indicates otherwise.

Application or *apply* means the actual physical deposit of fertilizer to turf or landscape plants.

Applicator means any person who applies fertilizer to turf and/or landscape plants within the City of Stuart.

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.

City of Stuart approved best management practices training program means a training program approved per 403.9338(1)(b) F.S., or any more stringent requirements set forth in this Article that includes at a minimum, 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.

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.

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Fertilize, fertilizing, or fertilization means the act of applying fertilizer to 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.

Fertilizer free zone means an area where fertilizer shall not be applied within ten (10) feet of an adjacent seawall, river, lake, pond, creek, stream, canal, ditch, swale or other water course, and any water retention area or water detention area, wetland, or preserve.

Institutional applicator means any person, other than a non-commercial or commercial applicator, that applies fertilizer for the purpose of maintaining turf 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 or common ownership.

Landscape plant means any native or exotic tree, shrub, or groundcover (excluding turf, sod, and lawn).

Non-commercial applicator means any person not defined as a commercial or institutional applicator who applies fertilizer on turf or landscape plants within the City of Stuart who is also the owner, landlord or tenant of the real property upon which the fertilizer is applied.

Prohibited application period means the time period during which a hurricane watch, hurricane warning, tropical storm watch, tropical storm warning, flood watch, flood warning, severe thunderstorm watch, or severe thunderstorm warning is in effect for any portion of the City of Stuart, issued by the National Weather Service, or if rainfall greater than or equal to two (2) inches in a twenty-four (24) hour period is likely.

Public works director means the City of Stuart Public Works Director, or an official of the City of Stuart designated by the Public Works Director to administer and enforce the provisions of this article.

Saturated soil means a soil in which the voids are filled with water. Saturation does not require flow. 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.

Turf, sod, or lawn means grass-covered soil held together by the roots of the grass.

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Sec. 20-161. Applicability.

This article shall apply to and shall regulate any and all applicators of fertilizer, and applications of fertilizer within the city, unless such applicator or application is specifically exempted by the terms of this article. Specific regulations herein apply to commercial and institutional applicators.

Sec. 20-162. Training.

(a) All commercial and institutional applicators who apply fertilizer within the city shall abide by and successfully complete the six (6) hour training program entitled "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 approved equivalent programs pursuant to section 403.9338(1)(b), F.S. Commercial and institutional applicators shall provide proof of completion of the program to the public works director, prior to any commercial or institutional application of fertilizer within the city.

(b) In accordance with section 482.1562(2) F.S., beginning January 1, 2014, any person applying commercial fertilizer must be certified by the Florida Department of Environmental Protection.

(c) Non-commercial applicators, including private property owners or occupants on their own residential property, are encouraged to familiarize themselves with the recommendations of the University of Florida IFAS Florida Yards and Neighborhoods program when applying fertilizers, and are encouraged to comply with the provisions of this article, as applicable.

Sec. 20-163. Timing of fertilizer applications.

- (a) 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.
- (b) Prohibited Application Period – No fertilizer containing nitrogen or phosphorus shall be applied between June 1 and September 30. Additionally, no fertilizer shall be applied during a Flood Watch or Warning, or a Tropical Storm Watch or Warning, or a Hurricane Watch or Warning, as issued by the National Weather Service, or if heavy rains (in excess of 2 inches in 24 hours) are expected.

Sec. 20-164. EXEMPTIONS.

- (a) The timing of applications, application rate provisions and other provisions set forth in Section 20 shall not apply to:
 - 1. Vegetable gardens, provided they are not within ten feet of any water body and/or wetland;

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2. Yard waste compost, mulches or other similar materials that are primarily organic in nature and are applied to improve the physical condition of the soil;
 3. Reclaimed, or irrigation quality (IQ) water used for irrigation (which may contain substantial amounts of nitrogen and phosphorus);
- (b) Commercial applicators and institutional applicators shall maintain documentation to support said exemption(s).
- (c) For all other specialized turf areas the managers shall use their best professional judgment to apply the concepts and principles embodied in the Florida Green BMPs, while maintaining the health and function of their specialized turf areas.

Sec. 20-165. Fertilizer free zones.

Fertilizer shall not be applied within a fertilizer free zone. Notwithstanding this provision, newly planted turf or landscape plants may be fertilized in a fertilizer free zone only for a first sixty (60) day period, beginning 30 days after planting if needed, to allow the plants to become established. Caution must be used by the applicator to prevent direct deposition of nutrients into the surrounding fertilizer free zone, including adjacent water bodies. No mowed or cut vegetative material should be deposited or left remaining in this zone or deposited in the water.

Sec. 20-166. Fertilizer content and application rates.

- (a) Native soils in the City are typically not Phosphorus deficient. Where practical low Phosphorus or zero Phosphorus fertilizers shall be used. The label of all fertilizers indicates its Nitrogen and Phosphorus content using a three digit numbering system printed on the label. The first number represents Nitrogen content and the second number represents the Phosphorus content. Applicators are encouraged to use a fertilizer where the ratio of nitrogen to phosphorus is at least 4 to 1. For example purposes only, an 8-2-10 bag of granular fertilizer would equal the 4 to 1 ratio.
- (b) To demonstrate the 4 to 1, N to P ratio to be used for established turf, the applicator can calculate pounds of fertilizer to apply per 1000 square feet of turf using the following formula:

The following example assumes a 100 pound bag of 8-2-10 fertilizer, which is 8 parts N; 2 parts P; and 10 parts other products, usually potash:

Nitrogen:

$100/8$ (8 parts of N) = 12.5 pounds

Therefore, spreading 12.5 pounds of fertilizer product per 1000 sq ft equals 1 pound N/1000 sq ft.

Phosphorus:

Then, 12.5 pounds of product x 2% (2 parts of P) = 0.25 pounds P/1000 sq ft

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- (c) Non-commercial applicators shall follow the instructions on the fertilizer bag.
- (d) Fertilizers applied to turf within the City of Stuart shall be formulated and applied in accordance with requirements and directions provided by Sec. 5E-1.003(2), Florida Administrative Code.
- (e) In accordance with Sec. 5E-1.003(2)(d), Florida Administrative Code, no more than 1.0 lb of total N per 1000 square feet shall be applied at any one time, and no more than 0.5 lb soluble N per 1000 square feet shall be applied in any one application, regardless of the fertilizer N source being applied.
- (f) In accordance with Sec. 5E-1.003(2) Florida Administrative Code, the application rate for phosphorous shall not exceed 0.25 lbs. P₂O₅/1000 ft² per application and not exceed 0.50 lbs. P₂O₅/1000 ft² per year. During the turf establishment period (turf that is less than 1 year old) and a soil test indicates a low level of P, a onetime application of up to 1.0 lbs P₂O₅ per 1000 sq ft may be applied.
- (g) In accordance with Sec. 5E-1.003(2)(b)(4)(a) Florida Administrative Code, the following recommendations for yearly Nitrogen application for established turf grass shall be used within the City of Stuart.

Fertilization Guidelines for Established Turfgrass Lawns in Three Regions of Florida			
Nitrogen recommendations (Lbs N / 1000 ft ² / year)*			
Species	North	Central	South
Bahia grass	2-3	2-4	2-4
Bermuda grass	3-5	4-6	5-7
Centipede grass	1-2	2-3	2-3
St. Augustine grass	2-4	2-5	4-6
Zoysia grass	3-5	3-6	4-6

*North Florida is north of Ocala. Central Florida is defined as south of Ocala to a line extending from Vero Beach to Tampa. South Florida includes the remaining southern portion of the state.

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- (h) Fertilizer containing N or P 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 the site.
- (i) All fertilizers applied to turf and/or landscape plants within the City of Stuart shall contain at least 50% of their nitrogen in slow release form.

Sec. 20-167. Soil testing by commercial applicators.

In February and September of each year, commercial applicators operating under a City contract shall collect a minimum of one (1) soil sample from each application site they service for the city. Samples shall be tested by a qualified professional laboratory for nutrient profile that will include pH and Phosphorus analyses. All commercial applicators under contract with the City, that apply fertilizer to land owned or maintained by the City of Stuart, shall be responsible for following the recommendations of the laboratory report and for purchasing and applying any and all soil conditioners required, and shall be applied in accordance with requirements in Sec. 20-166 of this article. Laboratory test results shall be submitted to the Director of Public Works no later than ten (10) days after receipt of the test results by the commercial applicator. Fertilization records must be maintained by commercial applicators under city contract and may be subject to inspection at any time at the discretion of the Public Works Director.

Sec. 20-168. 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 deposited on any impervious surfaces. Any fertilizer applied, spilled, or deposited, whether intentionally or accidentally, on any impervious surface shall be immediately and completely removed to the greatest extent practicable, and must be either re-applied in a lawful manner, or re-deposited into an appropriate container.
- (c) In no case shall fertilizer be intentionally washed, swept, or mechanically blown off impervious surfaces into stormwater drains, ditches, conveyances, or water bodies.
- (d) Fertilizer shall not be applied by any person during a prohibited application period.
- (e) Fertilizer shall not be applied by any person to saturated soil.

Sec. 20-169. Management of grass clippings and vegetative matter.

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No person shall wash, sweep or mechanically blow grass clippings, vegetative material, or vegetative debris into stormwater drains, ditches, water bodies, wetlands, sidewalks, gutters or roadways. Any material that is intentionally or accidentally so deposited shall be immediately removed to the maximum extent possible.

Sec. 20-170. Exemption; farms.

The provisions set forth above in this article shall not apply to bona fide farm operations as defined in the Florida Right to Farm Act, Section 823.14, Florida Statutes.

Sec. 20-171. Violations and penalties.

(a) Any person who violates this article, except as provided in subsection (b) below, shall be guilty of a civil infraction, punishable for a 1st offense by a fine of up to \$50; for a 2nd offense by a fine of \$100; for a 3rd offense by a fine of \$200; and for any additional offenses by a fine of up to \$500 for repeat violations. Each violation is subject to administrative costs, as otherwise provided elsewhere in this code, and in sec. 162.09, Florida Statutes.

(b) Any commercial or institutional applicator who willfully violates this article shall be guilty of a 2nd degree misdemeanor, punishable by a fine of up to \$500, or imprisonment of up to 60 days in jail, or both a fine and imprisonment.

SECTION 2: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 3: If any section, sentence, clause, phrase or word of this ordinance is for any reason declared to be unconstitutional, inoperative or void, such holding shall not affect the remaining portions of this ordinance and the remaining portions shall be deemed and held to be valid.

SECTION 4: The provisions of Section 1 of this ordinance shall be codified.

SECTION 5: This ordinance shall take effect immediately upon adoption.

Passed on first reading this 10th day of March, 2014.

Commissioner KRAUSKOPF offered the foregoing ordinance and moved approval on the second reading. The motion was seconded by Commissioner CHRISTIE and upon being put to a roll call vote, the vote was as follows:

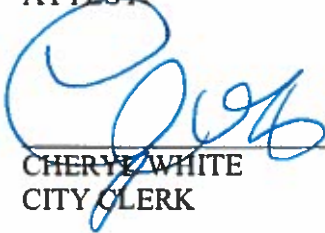
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Adopted on second reading this 14th day of April 2014.

TROY MCDONALD, MAYOR
KELLI GLASS LEIGHTON, VICE MAYOR
EULA R. CLARK, COMMISSIONER
JEFFREY KRAUSKOPF, COMMISSIONER
JAMES A. CHRISTIE, COMMISSIONER

YES	NO	ABSENT
X		
X		
X		
X		
X		

ATTEST:



CHERYL WHITE
CITY CLERK



TROY MCDONALD
MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:



MICHAEL MORRELL
CITY ATTORNEY

