

ORDINANCE NO. 2014 - A19

AN ORDINANCE AMENDING PART II, CHAPTER 66, ARTICLE II, CREATING DIVISION 4, REGULATING THE USE OF FERTILIZERS CONTAINING NITROGEN AND/OR PHOSPHORUS WITHIN UNINCORPORATED CITRUS COUNTY; REQUIRING THE USE OF GREEN INDUSTRY BEST MANAGEMENT PRACTICES; INCLUDING DUTY TO ENFORCE; PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR FILING WITH THE DEPARTMENT OF STATE; PROVIDING FOR INCLUSION IN THE CODE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Citrus County is located on the "springs coast" in the heart of the largest concentration of springs in the world and is home to more than 100 spring vents, geologic karst, caves and underground stream systems found nowhere else in the world; and

WHEREAS, Citrus County contains three of only 33 first-magnitude Florida Springs, including the Kings Bay Group, Homosassa Group, and Chassahowitzka Group; and

WHEREAS, springs are a highly valued resource due to the widely recognized environmental, historical and cultural importance to Citrus County and the State of Florida; and

WHEREAS, Citrus County is concerned with the current and future impacts of loading of excess nutrients, especially nitrogen and phosphorous compounds, into these relatively low-nutrient adapted springs, rivers and coastal waters; and

WHEREAS, nearly all lands within Citrus County's boundaries are located within the springshed recharge areas of springs groups located both within and outside the County and further that lands within its boundaries are also located within the watersheds of the Withlacoochee River and coastal estuaries and waters of the Gulf of Mexico; and

WHEREAS, Florida Statutes 403.9337 requires "each county and municipal government located within the watershed of a water body or water segment that is listed as impaired by nutrients pursuant to s. 403.067, shall, at a minimum, adopt the department's Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes."

WHEREAS, the Florida Department of Environmental Protection has identified specific water bodies in Citrus County as "impaired" as a result of excess nutrients under the Florida Impaired Waters Rule (Chapter 62-303, Florida Administrative Code); and

WHEREAS, as a result of impairment to Citrus County's surface waters caused by excessive nutrients, or, as a result of increasing levels of nitrogen in the surface and/or ground water within the aquifers or springs within the boundaries of Citrus County, the

board of Citrus County has determined that the use of fertilizers on lands within Citrus County creates a risk of contributing to adverse effects on surface and ground water. Accordingly, the board of Citrus County 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, 2010," may be required by this ordinance; and

NOW THEREFORE BE IT ORDAINED BY CITRUS COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA:

Section I. Enactment Authority

Article VIII, §1 of the Florida Constitution and Chapter 125, Florida Statutes vest broad home rule powers in counties to enact ordinance, not inconsistent with general or special law, for the purpose of promoting the public health, safety and welfare of the residents of the county. The Board specifically determines that the enactment of this ordinance is consistent with general or special law, and is necessary and appropriate to promote the health, safety and welfare of the residents of Citrus County.

Section II. Short Title

This ordinance shall be known and may be referred to as the Citrus County Ordinance for Fertilizer Use and Landscape Maintenance Practices.

Section III. Adoption of Part II, Chapter 66, Article II, Division 4, Fertilizer Use and Landscape Maintenance Practices.

Part II, Chapter 66, Article II, Division 4, Fertilizer Use and Landscape Maintenance Practices is created to read as follows:

Fertilizer Use and Landscape Maintenance Practices.

Sec. 66-93. Findings.

The Board finds that the above "Whereas" clauses are true and correct, and hereby incorporates such clauses as findings of the Board.

Sec. 66-94. Purpose and Intent.

This Ordinance regulates and promotes 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; establishes fertilizer-free zones, low maintenance zones, and exemptions. The 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 Citrus County'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 Citrus County 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.

Sec. 66-95. Definitions.

For this Article, the following terms shall have the meanings set forth in this section unless the context clearly indicates otherwise.

"Administrator" means the Citrus County Administrator, or an administrative official of Citrus County government designated by the Citrus County Administrator 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 Citrus County.

"Board or Governing Board" means the Board of County Commissioners of Citrus County, a political subdivision of the State of Florida.

"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.

"Code Compliance Officer, Official, or Inspector" means any designated employee or agent of Citrus County whose duty it is to enforce codes and ordinances enacted by Citrus County.

"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, controls soil acidity or alkalinity, 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, industrial or 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 feet wide adjacent to water courses 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, organization, 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 Citrus County, issued by the National Weather Service, or if heavy rain¹ is likely.

“Citrus County Approved Best Management Practices Training Program” means a training program approved per 403.9338 F.S., 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, 2010,” as revised, and approved by the Citrus County Administrator.

“Saturated Soil” means a soil in which the voids are filled with water. Saturation does not require flow. For the purposes of this ordinance, 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.

¹World Meteorological Organization definition of heavy rain: Rainfall greater than or equal to 50 mm (2 inches) in a 24 hour period. <http://severe.worldweather.org/rain/>, and forecast keyword “likely”, http://www.wrh.noaa.gov/sew/MediaGuide/TermsOutlooks_Watches_Warnings.pdf.

“Slow Release, Controlled Release, Timed Release, Slowly Available, 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 § 570.02, Florida Statutes.

Sec. 66-96. Applicability.

This ordinance shall be applicable to and shall regulate any and all applicators of fertilizer and areas of application of fertilizer within the unincorporated area of Citrus County, unless such applicator is specifically exempted by the terms of this ordinance from the regulatory provisions of this ordinance. This ordinance shall be perspective only, and shall not impair any existing contracts.

Sec. 66-97. Timing of fertilizer application.

- (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) Fertilizer containing nitrogen or phosphorus 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 that site.

Sec. 66-98. Fertilizer-free zones.

Fertilizer shall not be applied within ten (10) feet of any pond, stream, watercourse, lake, canal, or wetland as defined by the Florida Department of Environmental Protection (Chapter 62-340, Florida Administrative Code) or from the top of a seawall or embankment. If more stringent Citrus 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 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 nutrients into the water.

Sec. 66-99. Low Maintenance Zones

A voluntary ten foot low maintenance zone is strongly recommended, but not mandated, from any pond, stream, water course, lake, wetland or from the top of a seawall or embankment. 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 Citrus County Code regulations apply, this provision does not relieve the requirement to adhere to the more stringent regulations. Care should be taken to prevent the over-spray of weed products in this zone.

Sec. 66-100. Fertilizer content and application rates.

- (a) Fertilizers applied to turf within unincorporated Citrus County shall be applied in accordance with requirements and directions provided by Rule 5E-1.003, Florida Administrative Code.
- (b) Application of Nitrogen shall follow the Nitrogen Recommendations for "North" Florida as provided by Rule 5E-1.003.
- (c) Nitrogen or phosphorus fertilizer shall not be applied to turf or landscape plants except as provided in (a) above for turf, or in UF/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.

Sec. 66-101. 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 drains, ditches, conveyances, or water bodies.

Sec. 66-102. 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, conveyances, water bodies, wetlands, sidewalks or roadways. Any material that is accidentally so deposited shall be immediately removed to the maximum extent practical. No

mowed or cut vegetative material may be deposited or left remaining within ten (10) feet of any pond, stream, watercourse, lake, canal, or wetland.

Sec. 66-103. Exemptions.

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

- (a) Bona fide farm operations as defined in the Florida Right to Farm Act, Section 823.14 Florida Statutes;
- (b) Other properties not subject to or covered under the Florida Right to Farm Act that have pastures used for grazing livestock;
- (c) Any lands used for bona fide scientific research, including, but not limited to, research on the effects of fertilizer use on urban stormwater, water quality, agronomics, or horticulture.

Sec. 66-104. Training.

- (a) All commercial and institutional fertilizer applicators within unincorporated Citrus County, as well as yard workers using fertilizer and/or equipment provided by the client, shall abide by and successfully complete the six-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 Extension Florida-Friendly Landscaping™ program, or an approved equivalent.
- (b) Private, non-commercial applicators such as residential property owners and tenants are encouraged to follow the recommendations of the University of Florida IFAS Florida-Friendly Landscaping™ program when applying fertilizers.
- (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), shall ensure all employed applicators have a "Florida-friendly Best Management Practices for Protection of Water Resources by the Green Industries" training certificate.

Sec. 66-105. Licensing of Commercial Applicators.

- (a) All Commercial applicators of fertilizer within the unincorporated area of Citrus County, shall 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 Extension "Florida-Friendly Landscapes" program, or an approved equivalent program, prior to obtaining a Citrus County Local Business Tax Certificate for any category of occupation

which may apply any fertilizer to turf and/or landscape plants. Commercial fertilizer applicators shall provide proof of completion of the program to the Citrus County Tax Collector's office within 180 days of the effective date of this ordinance.

- (b) All Commercial applicators of fertilizer within the unincorporated area of Citrus County 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 per 5E-14.117(18) Florida Administrative Code.

Sec. 66-106. Enforcement and Duty to Enforce.

- a) This Article may be enforced in accordance with Chapter 162, Florida Statute and Part II, Chapter 1, Section 1-9, of the Citrus County Code of Ordinances.
- b) Notwithstanding any other provision of this Article, the County may also enforce this Article by actions at law or in equity for damages and injunctive relief. In the event the County prevails in any such action, the County shall be entitled to an award of costs and attorney's fees.
- c) It shall be the duty of the Citrus County Water Conservation Specialists, Citrus County Code Compliance Officers, the Citrus County Sheriff and his deputies, and any other employees or agents of the county authorized by the County Administrator, to strictly enforce the provisions of this article.
- d) The Inspector shall be empowered to make inspections at reasonable hours of all land uses or activities regulated by this article in order to ensure compliance with the provisions of this article. The inspector shall make all observations during their inspections from areas accessible by the public, unless specific permission is granted by a property owner to come on their property, or a search warrant is obtained from a court of competent jurisdiction.
- e) The inspector may require corrective actions as a result of the violation activities.
- f) The provisions of this part shall not apply to the enforcement pursuant to ss. 553.79 and 553.80 of the Florida Building Code adopted pursuant to s. 553.73 as applied to construction, provided that a building permit is either not required or has been issued by the county or municipality.

Sec. 66-107. Citations.

- a) The inspector is authorized to issue a notice of citation to a person or business owner when, based upon personal investigation, the inspector has reasonable cause to believe that a violation has been committed.
- b) All notices under this article shall comply with the requirements provided pursuant to F.S. § 162 regarding notices. A citation issued by an Inspector shall be in a form prescribed by the County and shall contain:

- a) Date and time of issuance
 - b) Name and address of person to whom the citation is issued
 - c) Name of business the violator is employed, if applicable
 - d) The date and time the civil infraction was committed
 - e) Factual description of violation constituting reasonable cause
 - f) Section of code of ordinances violated
 - g) Name and authority of officer issuing notice
 - h) Procedure for person to follow in order to pay the civil penalty or to contest the citation
 - i) Applicable civil penalty if violator elects to contest citation
 - j) Applicable civil penalty if violator elects not to contest citation
 - k) A conspicuous statement that if violator fails to pay civil penalty within time allowed, or fails to appear in court to contest citation, he shall be deemed to have waived his right to contest the citation and that, in such case, judgment may be entered against the violator for an amount up to the maximum civil penalty
- c) After issuing a citation to an alleged violator, an inspector shall deposit the original citation and one copy of the citation with the county court, if payment is not received within 30 days of violation date.
 - d) When a civil penalty is assessed for a violation of this article, such penalty shall be paid to Citrus County BOCC within 30 days of violation date.
 - e) The person or business owner issued the citation may contest by submitting a written request to the Citrus County Water Conservation office to be received within 30 days of violation date. The citation will then immediately be forwarded to the Clerk of Court to request a court hearing date.
 - f) All unpaid citations 31 days beyond violation date will be sent to the Clerk of Court to request a hearing date. The Clerk shall then schedule a hearing in the County Court and shall provide written notice of the hearing to the citation recipient.
 - g) A citation recipient that fails to pay the civil penalty within the time allowed, or fails to appear in county court to contest the citation, shall be deemed to have waived the right to contest the citation and, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.
 - h) Any person who willfully refuses to sign and accept a citation issued by code enforcement officer shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Sec. 66-108. Penalty.

- a) Every violation of this article is a civil infraction punishable by a civil penalty not to exceed \$500.00. Each infraction shall be considered as a separate offense as follows:

First violation—\$100.00 fine.

Second violation—\$250.00 fine.

Third and all subsequent violations—\$500.00 fine.

- i) Funds generated by penalties imposed under this section shall be used by Citrus County for the administration and enforcement of section 403.9337, Florida Statutes, and the corresponding sections of this ordinance, and to further water conservation and nonpoint pollution prevention activities.
- j) Any applicator applying fertilizers in violation of any stipulation or performance standard contained herein shall be subject to the penalties as provided for in this Article.
- k) Any business employing an applicator in violation of this Article shall be subject to the penalties as provided in this Article.
- l) The Clerk of Courts may seek a lien on the property when the person cited for a violation fails to pay the amount entered as a judgment.

Sections 66-109– 66-122. Reserved.

SECTION IV. SEVERABILITY.

The provisions of this Ordinance are severable and it is the intention to confer the whole or any part of the powers herein provided for. If any provision of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, that portion will be deemed a separate provision and will not affect any remaining provisions of the ordinance. It is hereby declared to be the legislative intent that this Ordinance would have been adopted if such unconstitutional provision was not included.

SECTION V. CONFLICTS OF LAW.

To the extent that the provisions of this Ordinance are more stringent than those of any other lawfully adopted Citrus County Ordinance or state law, then this Ordinance shall apply.

SECTION VI. CODIFICATION, INCLUSION IN CODE AND SCRIVENER'S ERRORS.

It is the intention of the Board of County Commissioners of Citrus County, a political subdivision of the State of Florida, and it is hereby provided that the provisions of this Ordinance will become and be made part of the Citrus County Code of Ordinances; and that the sections of this Ordinance may be renumbered or re-lettered and that the word "Ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intention. Regardless of whether such inclusion in the code is accomplished, sections of this ordinance may be renumbered or re-lettered and typographical errors which do not affect the intent may be authorized by the County Administrator's designee, without need of a public hearing, by filing a corrected or re-codified copy of the same with the Clerk of the Circuit Court.

SECTION VII. EFFECTIVE DATE.

This Ordinance shall take effect immediately upon filing with the Office of the Secretary of State of Florida. However, a ninety (90) day implementation period is hereby established in order for fertilizer applicators, as set forth in this ordinance, to become familiar with the provisions of this ordinance and provide a reasonable period for compliance with the terms of this ordinance. During the implementation period, only warning notices that impose no civil penalty shall be issued.

DONE AND ADOPTED in regular meeting of the Board of County Commissioners, Citrus County, a political subdivision of the State of Florida, this 14th day of October, 2014.

ATTEST



for Tifani L. White, Clerk
ANGELA VICK, CLERK

BOARD OF COUNTY
COMMISSIONERS OF CITRUS
COUNTY, A POLITICAL SUBDIVISION
OF THE STATE OF FLORIDA

J.J. Kenny
J.J. KENNY, CHAIRMAN

APPROVED AS TO FORM FOR THE
RELIANCE OF CITRUS COUNTY ONLY:

Kerry A. Parsons
KERRY A. PARSONS
COUNTY ATTORNEY