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**ORDINANCE NO. 2013 - 08**

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF HALLANDALE BEACH, FLORIDA, AMENDING CHAPTER 13 HEALTH AND SANITATION TO CREATE ARTICLE IV SECTIONS 13-98 THROUGH 13-110 THE FLORIDA FRIENDLY FERTILIZER USE ACT, REQUIRING THE USE OF FRIENDLY FERTILIZER PRACTICES IN THE APPLICATION OF FERTILIZER TO TURF AND LANDSCAPE PLANTS; PROVIDING FOR CERTIFICATION OF COMMERCIAL AND INSTITUTIONAL APPLICATORS OF FERTILIZER; PROVIDING FOR ENFORCEMENT; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the quality of streams, lakes, and wetlands is important to environmental, economic, and recreational prosperity and to the health, safety, and welfare of the residents of the City of Hallandale Beach; and

**WHEREAS**, surface water runoff and base flow runoff leaves residential neighborhoods, commercial centers, industrial areas, and other lands of the City of Hallandale Beach and enters into natural and artificial stormwater and drainage conveyances and natural water bodies of the City and the State of Florida; and

**WHEREAS**, pursuant to Section 303(d) of the Federal Clean Water Act and the resulting Florida Impaired Water Rule (Chapter 62-303, Florida Administrative Code), the Florida Department of Environmental Protection ("FDEP") has classified specific water bodies to which the City contributes as "impaired" as a result of the presence of excess nutrients; and

**WHEREAS**, leaching and runoff of nutrients from improper or excess fertilization practices contributes to nitrogen and phosphorus loading in the City's stormwater conveyances and natural water bodies have heightened concerns about water quality and eutrophication of surrounding waters; and

**WHEREAS**, it is generally recognized that eastern Florida soils naturally have a suitable phosphorus content for most vegetative needs and that phosphorus is therefore rarely needed to create or maintain a vibrant landscape; and



72 **SECTION 1.** Chapter 13 Health and Sanitation, of the Code of Ordinances of the City of  
73 Hallandale Beach, Florida, is hereby amended to create Article IV Florida Friendly Fertilizer  
74 Use Act, which shall read as follows:

75 \*\*\*\*\*

76  
77 **Section 13-98** **Title.**

78 Sections 13-98 through 13-110 shall hereafter be known as the **FLORIDA FRIENDLY-**  
79 **FERTILIZER USE ACT.**

80  
81  
82 **Section. 13-99. - Definitions.**

83  
84 For the purpose of this article, the following terms shall have the meanings set forth by this  
85 section unless the context clearly indicates otherwise.

86  
87 All words used in the present tense include the future; all words in the singular number include  
88 the plural and the plural the singular. Any word or term not interpreted or defined by this section  
89 shall be used with a common dictionary meaning of common or standard utilization.

90  
91 *Application* or *apply* means the physical deposit, placement, or release of fertilizer upon soil or  
92 turf or landscape plants.

93  
94 *Applicator* means any person who applies fertilizer.

95  
96 *Approved soil test* means soil and tissue tests for phosphorus and/or nitrogen done by the  
97 University of Florida Institute of Food and Agricultural Sciences (UF/IFAS) or an accredited  
98 laboratory that regularly performs soil testing.

99  
100 *Commercial applicator* means, except as provided in F.S. § 482.1562(9), any person who  
101 applies fertilizer in exchange for money, goods, services or other valuable consideration to  
102 property not owned by the person or firm applying the fertilizer.

103

104 *Fertilizer* means any substance or mixture of substances that contains one or more recognized  
105 plant nutrients and promotes plant growth, or controls soil acidity or alkalinity, or provides other  
106 soil enrichment, or provides other corrective measures to the soil.

107

108 *Fertilizing* means the act of applying fertilizer to soil, turf, specialized turf, or landscape plants.

109

110 *Institutional Applicator* means any person, other than a private, non-commercial or a commercial  
111 applicator (unless such definitions also apply under the circumstances), that applies fertilizer for  
112 the purpose of maintaining turf and/or landscape plants. Institutional Applicators shall include,  
113 but shall not be limited to, owners, managers or employees of public lands, schools, parks,  
114 religious institutions, utilities, industrial or business sites and any residential properties  
115 maintained in condominium and/or common ownership.

116

117 *Landscape Plant* means any native or non-native tree, shrub, bush or groundcover plant,  
118 excluding turf.

119

120 *Person* means any person, natural or artificial, individual, firm, association, partnership,  
121 business trust, corporation, company, association, club, organization and/or any group of people  
122 acting as an organized entity.

123

124 *Prohibited Application Period* means the time period during which a flood watch or warning, or a  
125 tropical storm watch or warning, or a hurricane watch or warning, or a 3-day cone of uncertainty  
126 is in effect for any portion of City's, issued by the National Weather Service.

127

128 *Saturated soil* means a soil in which the voids are filled with water. Saturation does not require  
129 flow. For the purposes of this ordinance, soils shall be considered saturated if standing water is  
130 present or the pressure of a person standing on the soil causes the release of free water.

131

132 *Slow Release* means nitrogen in a form which delays its availability for landscape plant or turf  
133 uptake and use for an extended period after application, or which extends its availability to the  
134 landscape to the landscape plant or turf longer than a readily available, rapid or quick release  
135 product. This definition includes the terms "controlled release", "slow release", "slowly available",  
136 and "water insoluble".

137

138 *Turf, Sod, or Lawn* means an area of grass-covered soil held together by the roots of the grass,  
139 including but not limited to, Bahia, Bermuda, Centipede, Paspalum, St. Augustine, and Zoysia,  
140 or other grass groundcover.

141

142

143 **Section. 13-100. – Fertilizer Free Zones.**

144

145 Fertilizer shall not be applied within ten feet, or three feet if a deflector shield or drop spreader is  
146 used, of any pond, stream, water course, lake, canal, or wetland as defined by The Florida  
147 Department of Environmental Protection (Chapter 62-340, Florida Administrative Code) or from  
148 the top of a seawall or lake bulkhead. Newly planted turf and/or landscape plants may be  
149 fertilized in this zone only for a 60 day establishment period beginning 30 days after planting, if  
150 needed to allow the plants to become established. Caution shall be used to prevent direct  
151 application of fertilizer into the water.

152

153 **Section. 13-101. – Fertilizer Application Restrictions.**

154

155 (1) No applicator shall apply fertilizers containing nitrogen and/or phosphorus to saturated  
156 soil or to turf and/or landscape plants on saturated soil.

157

158 (2) No applicator shall apply fertilizers containing nitrogen and/or phosphorus to turf and/or  
159 landscape plants during any prohibited application period, including any period for which  
160 the National Weather Service has issued any of the following advisories for any portion  
161 of the City: flood warning or watch, tropical storm warning or watch, hurricane warning or  
162 watch, or a three-day cone of uncertainty.

163

164 (3) Fertilizers containing nitrogen and/or phosphorus shall not be applied before seeding or  
165 sodding a site, and shall not be applied for the first 30 days after seeding or sodding,  
166 except when hydro-seeding for temporary or permanent erosions control in an  
167 emergency situation (wildfire, etc.), or in accordance with the stormwater pollution  
168 prevention plan for that site.

169

170 **Section. 13-102. – Fertilizer Content and Application Rates.**

171

172 (1) All fertilizer to be applied shall be labeled in accordance with state law.

173

174 (2) Fertilizers applied to turf and/or landscape plants within the City shall be applied in  
175 accordance with requirements and directions provided by Rule 5E-1.003(2), Florida  
176 Administrative Code, *Labeling Requirements For Urban Turf Fertilizers*, and shall not  
177 exceed the application rates and frequency maximums, which vary by plant and turf  
178 type, found on the labeled fertilizer bag or container.

179

180 (3) Unless a soil or tissue deficiency has been verified by an approved soil test:

181 (a) Nitrogen or phosphorus fertilizer shall be applied to turf in accordance with the  
182 rates frequency requirements of subsection (2) above; and

183 (b) Nitrogen or phosphorus fertilizer shall be applied to landscape plants in  
184 accordance with the rates and frequency requirements of subsection (2) above,  
185 or in accordance with the University of Florida/Institute of Food and Agricultural  
186 Sciences recommendations for landscape plants, vegetables gardens and fruit  
187 trees and shrubs.

188

189 **Section. 13-103. – Mode of Application.**

190

191 Spreader deflector shields are required when fertilizing via broadcast spreaders. Deflectors  
192 must be positioned such that fertilizer granules are deflected away from all impervious surfaces,  
193 fertilizer free zones, water bodies including wetlands, and saturated soil.

194

195 **Section. 13-104. – Impervious Surfaces.**

196

197 Fertilizer shall not be applied, spilled, or otherwise deposited on any impervious surfaces. Any  
198 fertilizer applied, spilled, or deposited, either intentionally or accidentally, on any impervious  
199 surface shall be immediately and completely removed to the greatest extent practicable.  
200 Fertilizer released on an impervious surface must be immediately contained and either legally  
201 applied to turf or any other legal site, or returned to the original or other appropriate container. In  
202 no case shall fertilizer be washed, swept, or blown off impervious surfaces into stormwater  
203 drains, ditches, conveyances, or water bodies including wetlands.

204

205

206 **Section. 13-105. – Management of Grass Clippings and Vegetative Matter.**

207  
208 In no case shall grass clippings, plant material, vegetative debris and/or yard and garden waste,  
209 intentionally be washed, swept, or blown onto or into stormwater drains, ditches, conveyances,  
210 fertilizer free zones, water bodies, wetlands, sidewalks or roadways. Any material that is  
211 accidently so deposited shall be immediately removed to the maximum extent practicable. Yard  
212 and garden waste material may be placed for pick up, in accordance with the city code, within  
213 the swale, parkway or street, but not in such a manner which may block or wash into the storm  
214 drains.

215  
216 **Section. 13-106. – Exemptions.**

217  
218 The provision of this article shall not apply to:

219  
220 (1) Bona fide farm operations or other properties that have pastures used for grazing  
221 livestock, which are covered under the Florida Right to Farm Act, F.S. § 823.14.

222  
223 (2) Any lands used for bona fide scientific research, including but not limited to, research on  
224 the effects of fertilizer use on urban stormwater, water quality, agronomics or  
225 horticulture.

226  
227 **Section. 13-107. – Commercial Applicators.**

228  
229 (1) Effective January 1, 2014, all commercial applicators applying fertilizer within the  
230 municipal boundary of the city shall provide evidence of successfully completion of the  
231 training in the requirements of the *“Florida-Friendly Best Management Practices for*  
232 *Protection of Water Resources by the Green Industries”* offered by the Florida  
233 Department of Environmental Protection through the University of Florida IFAS *“Florida-*  
234 *Friendly Landscapes”* program, or an approved equivalent program, prior to obtaining or  
235 renewing a certificate of use and/or obtaining a business tax receipt for any category of  
236 occupation which may apply any fertilizer to turf and/or landscape plants.

237  
238 (2) Effective January 1, 2014, all commercial applicators applying fertilizer within the  
239 municipal boundary of the city shall have, and carry in their possession at all times when

240 applying fertilizer, evidence of certification by the Florida Department of Agriculture and  
241 Consumer Services as a Commercial Fertilizer Applicator per Rule 5E-14.117(18),  
242 Florida Administrative Code.

243  
244

245 **Section. 13-108. – Institutional Applicators.**

246  
247 Effective January 1, 2014, all institutional applicators which apply, or cause to be applied,  
248 fertilizer on the institutional applicator’s property within the municipal boundary of the city shall  
249 provide evidence that at least one employee of the institutional applicator has successfully  
250 completed the “*Florida-Friendly Best Management Practices for Protection of Water Resources*  
251 *by the Green Industries*” offered by the Florida Department of Environmental Protection through  
252 the University of Florida or Broward County Cooperative Extension Service “Florida-Friendly  
253 Landscapes” program, or an approved equivalent program, prior to obtaining or renewing a  
254 certificate of use and/or obtaining a business tax receipt.

255

256 **Section. 13-109. – Enforcement**

257  
258 The provision of this article shall be enforced by:

259  
260 (1) The City of Hallandale Beach Code Enforcement Board or Special Master pursuant to  
261 the authority granted by F.S. § 162.01, as may be amended and Article 10 of the Unified  
262 Land Development Code, as may be amended.

263  
264 (2) The City of Hallandale Beach through its authority to enjoin and restrain any person  
265 violating the Unified Land Development Code, or the City of Hallandale Beach through  
266 the prosecution of violations in the name of the State of Florida pursuant to the authority  
267 granted by F.S. § 125.69, as may be amended. The Code Enforcement Official may  
268 pursue any other enforcement remedies available to and applicable to the City of  
269 Hallandale Beach.

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274 **Section. 13-110. – Penalties.**

275

276 (1) Failure to comply with the requirements of this article shall constitute a violation and  
277 shall be punishable by a fine not to exceed \$250 per incident for the violation or a fine  
278 not to exceed \$500 per incident for a repeat violation, and, in addition, may include all  
279 costs of repairs and remediation including administrative costs. Each new day the  
280 violation exists it is considered a separate incident.

281

282 (2) In determining the amount of fines that should be imposed, the Special Master shall  
283 consider the following factors :

284

285 (a) The gravity of the violation.

286 (b) Any actions taken by the violator to correct the violation.

287 (c) Any previous violations committed by the violator. If the Special Master finds the  
288 violation is irreparable or irreversible in nature, a fine not to be exceed \$15,000  
289 per violation may be imposed.

290

291 (3) Funds generated by penalties imposed under this article shall be used by the City of  
292 Hallandale Beach for the administration and enforcement of F.S. § 403.9337, and  
293 corresponding sections of this article, and to further water conservation and nonpoint  
294 pollution prevention activities.

295

296 **SECTION 2. Conflict.** All ordinances or portions of the Code of Ordinances of the City of  
297 Hallandale Beach in conflict with the provisions of this ordinance shall be repealed to the extent  
298 of such conflict.

299

300 **SECTION 3. Severability.** Should any provision of this ordinance be declared by a court of  
301 competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a  
302 whole, or any part thereof, other than the part declared to be invalid.

303

304 **SECTION 4. Codification.** It is the intention of the Mayor and City Commission that the  
305 provisions of this ordinance be incorporated into the Code of Ordinances; to effect such  
306 intention the words “ordinance” or “section” may be changed to other appropriate words.

307

308 **SECTION 5. Effective date.** This Ordinance shall take effect immediately upon adoption.

309

310 PASSED AND ADOPTED on 1<sup>st</sup> reading on August 7, 2013.

311 PASSED AND ADOPTED on 2<sup>nd</sup> reading on August 21, 2013.

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JOY F. COOPER  
MAYOR

317 SPONSORED BY: CITY ADMINISTRATION

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319 ATTEST:

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SHEENA D. JAMES, CMC  
CITY CLERK

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326 APPROVED AS TO LEGAL SUFFICIENCY  
327 FORM

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V. LYNN WHITFIELD  
CITY ATTORNEY

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