



Interoffice Memorandum

June 5, 2017

TO: Mayor Teresa Jacobs  
-AND-  
Board of County Commissioners

FROM: Jon V. Weiss, P.E., Director  
Community, Environmental and Development  
Services Department

CONTACT PERSON: Lori Cuniff, CEP, CHMM, Deputy Director  
Community, Environmental and Development  
Services Department  
(407) 836-1405

SUBJECT: June 20, 2017 – Public Hearing  
Revisions to Chapter 15, Article XVII. Fertilizer Management

The Environmental Protection Division (EPD) is presenting proposed revisions to the Fertilizer Management Ordinance. Orange County approved the original Ordinance in 2009.

EPD is proposing changes to the Fertilizer Management Ordinance in order to remain in compliance with the 2016 Florida Springs and Aquifer Protection Act. This Act requires Priority Springs stakeholders to have an ordinance with minimum language in the Florida Department of Environmental Protections Model Ordinance for Florida Friendly Fertilizer Use on Urban Landscapes (403.9337, Florida Statutes). In addition, there were revisions to the Urban Turf Rule (5E - 1.003, Florida Administrative Code) for which our code needed updates. These changes included the addition of landscape plants, language requiring cleanup of spilled product and nitrogen application requirements for certain grass species.

Stakeholder public meetings were held on March 29, 2017 and April 12, 2017. On April 26, 2017, the Environmental Protection Commission (EPC) unanimously voted to support the proposed changes to the Ordinance. EPD presented a draft of this Ordinance to the Board of County Commissioners during a work session on June 6, 2017.

The County Attorney's Office has reviewed the revised ordinance as to form.

**ACTION REQUESTED:** Approval and execution of Fertilizer Management Code Amendments, as recommended by staff. All Districts

LC/JVW: mg  
Attachment

ORDINANCE NO. 2017-\_\_

AN ORDINANCE AMENDING THE "FERTILIZER MANAGEMENT ORDINANCE" REGULATING THE APPLICATION OF FERTILIZER ON LAND IN ORANGE COUNTY; CREATING SECTION 15-800, FINDINGS AND PURPOSE; AMENDING SECTION 15-801, DEFINITIONS; AMENDING SECTION 15-803, WEATHER AND SEASONAL RESTRICTIONS; AMENDING SECTION 15-804, FERTILIZER CONTENT; APPLICATION RATE; AMENDING SECTION 15-805, FERTILIZER-FREE ZONES; AMENDING SECTION 15-808, EXEMPTIONS; EXCEPTIONS; AMENDING SECTION 15-809, COMMERCIAL TRAINING REQUIREMENTS; PROOF OF COMPLIANCE; AMENDING SECTION 15-810, COMMERCIAL APPLICATORS; BUSINESS TAX CERTIFICATE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY:

**Section 1. Amendments; In General.** Chapter 15 of the Orange County Code is amended as set forth in Section 2 through Section 14 herein with new additions being shown as underlined and deletions being shown by strike-throughs.

**Section 2. Creating Section 15-800.** Section 15-800, presently "Reserved" under Article XVI (Pollutant Storage Tanks) of Chapter 15, is created to read as follows:

**Sec. 15-800. Findings and Purpose.**

As a result of impairment to Orange County's surface waters, groundwater, and springs caused by excessive nutrients, Orange County has determined that the improper use of fertilizers on land creates a risk of contributing to adverse effects on surface and groundwater. This ordinance regulates the proper use and application of fertilizer, training requirements, and restricted application periods in Orange County.

38           **Section 3.     Amending Section 15-801.** Section 15-801 ("Definitions.") is amended to  
read as follows:

40                   **Sec. 15-801. Definitions.**

42                   *Apply* or *application* means the physical deposit, placement, or  
release of fertilizer upon soil, ~~or turf, or landscape plants.~~

44                   *Applicator* means any person who applies fertilizer.

46                   *Article* means chapter 15, article XVII, of the Orange County  
Code of Ordinances, as amended, unless otherwise specified.

48                   *Best management practices (BMPs)* means the practice or  
combination of practices based on research, field testing, and  
50                   expert review, determined to be the most effective and practicable  
on-location means, including economic and technological  
52                   considerations, for improving water quality, conserving water  
supplies, and protecting natural resources.

54                   *Commercial applicator* means any person who applies  
fertilizer in exchange for money, goods, services, or other valuable  
56                   consideration and who is required by law, ordinance, or regulation  
to obtain an Orange County local business tax certificate.

58                   ~~*County approved best management practices training*~~  
~~*program means a program approved as such in writing by the*~~  
~~*Manager of the Orange County Environmental Protection Division.*~~  
60                   ~~*The program shall include the most current version of "Florida*~~  
~~*Friendly Best Management Practices for Protection of Water*~~  
62                   ~~*Resources by Green Industries, December 2008." The Orange*~~  
~~*County Environmental Protection Division will maintain a publicly*~~  
64                   ~~*available list of approved training programs.*~~

66                   *Fertilizer* means any substance or mixture of substances,  
excluding pesticides, organic composts, and fertilizer derived from  
68                   biosolids, that contains one (1) or more recognized plant nutrients  
and promotes plant growth, or controls soil acidity or alkalinity, or  
70                   provides other soil enrichment, or provides other corrective  
measures to the soil.

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

74           *Golf course* means any public or private area of land designed  
76           and used exclusively for playing or practicing golf, including tees,  
78           fairways, greens, rough areas, hazards, and driving ranges (stand-  
80           alone ranges or those associated with a golf course). A golf course  
82           shall also include the following uses if they are accessory to the  
             above uses: clubhouses, and all facilities adjacent to and associated  
             with the daily operations of the above-referenced areas. Golf-  
             related structures or features on residentially zoned private land  
             shall not constitute a golf course.

84           *Groundcover* means plants used in mass as alternative to turf  
             or lawn and/or to create variety in landscape; usually not having a  
             mature height over two (2) feet tall.

86           *Landscape plants* means any shrub, tree, or groundcover,  
             excluding turf and vegetable gardens.

88           *Person* means any person, natural or artificial, individual,  
90           firm, association, organization, partnership, business trust,  
92           corporation, company, agent, employee, or any other legal entity,  
             the United States of America, and the State of Florida and all  
             political subdivisions, regions, districts, municipalities, and public  
             agencies.

94           *Restricted season* means the period from June 1 through  
             September 30.

96           *Slow release* means nitrogen in a form which delays its  
98           availability for plant uptake and use for an extended period after  
100          application, or which extends its availability to the plant longer  
             than a readily available, rapid, or quick-release product. This  
             definition includes the terms "controlled release," "timed release,"  
             "slowly available," and "water insoluble."

102          *Turf, sod, or lawn* means a mat layer of monocotyledonous  
104          plants, including but not limited to, Bahia, Bermuda, Centipede,  
             Paspalum, St. Augustine, ~~and or Zoysia, or other groundcover.~~

**Section 4.    No amendment to Section 15-802.** There is no amendment to Section 15-

802 ("Applicability."), which shall remain unchanged.

**Sec. 15-802.   Applicability.**

108          Consistent with section 704 of the Orange County Charter,  
110          this ordinance shall be applicable throughout all of Orange County,  
             except in municipalities that have minimum standards for the

regulation of fertilizer application that are no less strict than those  
in this article.

**Section 5. Amending Section 15-803.** Section 15-803 ("Weather and seasonal  
restrictions."), is amended to read as follows:

**Sec. 15-803. Weather and seasonal restrictions.**

(a) No fertilizer containing nitrogen or phosphorus  
shall be applied to turf or landscape plants during a period for  
which the National Weather Service has issued any of the  
following advisories for any portion Orange County: a severe  
thunderstorm warning or watch, flood warning or watch, tropical  
storm warning or watch, or hurricane warning or watch, ~~or a three-~~  
~~day cone of uncertainty.~~

(b) No person, except applicators certified pursuant to  
section 15-809 herein, shall apply fertilizer containing nitrogen or  
phosphorus to turf or landscape plants during the restricted season  
from June 1 through September 30.

**Section 6. Amending Section 15-804.** Section 15-804 ("Fertilizer content;  
application rate.") is amended to read as follows:

**Sec. 15-804. Fertilizer content; application rate.**

(a) ~~No All~~-fertilizer shall be used unless labeled in  
accordance with state law.

(b) No fertilizer containing phosphorus shall be applied  
to turf or landscape plants. Provided, however, where phosphorus  
deficiency has been demonstrated in the soil ~~underlying the turf~~ by  
a soil analysis test performed by a ~~State of Florida-certified~~  
laboratory using University of Florida's Institute of Food and  
Agricultural Sciences ("UF/IFAS") approved methodology,  
phosphorus may then be applied ~~to turf~~ at a rate no greater than  
one-quarter of one pound (0.25 lb.) of phosphorus per one  
thousand (1,000) square feet per application, not to exceed one-  
half pound (0.5 lb.) of phosphorus per one thousand (1,000) square  
feet per year. Any person who obtains such a soil analysis test  
showing a phosphorus deficiency ~~and who wishes to~~ may apply  
phosphorus ~~to turf and shall mail a copy of~~ provide the test results  
to the Orange County Environmental Protection Division,  
Attention: Manager, ~~800 Mercy Drive, Orlando, Florida 32808~~

148 within thirty (30) days of receipt of results. ~~In addition, phosphorus~~  
150 ~~may be applied at the foregoing rate to newly installed, regardless~~  
~~of whether a soil deficiency test has been performed, for a period~~  
~~of sixty (60) days following installation.~~

152 (c) No fertilizer containing nitrogen shall be applied to  
154 ~~turf~~ unless at least fifty (50) percent of its nitrogen content is slow  
156 release as indicated on the Guaranteed Analysis label, with no  
more than one (1) pound total nitrogen per one thousand (1,000)  
square feet of area per application.

158 (d) Notwithstanding subsection 15-804(c), commercial  
160 applicators may apply fertilizer to ~~turf~~ at a rate that does not  
162 exceed one-half of one pound (0.5 lb.) of readily available nitrogen  
per one thousand (1,000) square feet of area, provided, however,  
that any application that exceeds one-half of one pound (0.5 lb.) of  
nitrogen shall conform to subsection 15-804(c).

164 (e) Notwithstanding any other provision of this section  
15-804, fertilizers applied to turf must follow the guidelines found  
166 in Rule 5E-1.003, F.A.C., as it may be amended. ~~no fertilizer shall~~  
~~be applied at a rate that exceeds the limits per plant species set~~  
~~forth below:~~

168 Plant Species/Nitrogen limit:

170 ~~Bahia grass: 2—4 pounds of nitrogen per 1,000~~  
~~square feet per year.~~

172 ~~Bermuda grass: 4—6 pounds of nitrogen per 1,000~~  
~~square feet per year.~~

174 ~~Centipede grass: 2—3 pounds of nitrogen per 1,000~~  
~~square feet per year.~~

176 ~~St. Augustine grass: 2—5 pounds of nitrogen per~~  
~~1,000 square feet per year.~~

178 ~~Zoysia grass: 3—6 pounds of nitrogen per 1,000~~  
~~square feet per year.~~

*Section 7. Amending Section 15-805.* Section 15-805 ("Fertilizer-free zones.") is

180 amended to read as follows:

**Sec. 15-805. Fertilizer-free zones.**

(a) No fertilizer shall be applied within ~~ten (10)~~ fifteen (15) feet of any wetland or surface waters, including but not limited to a lake, pond, stream, water body, water course, or canal. Additionally, no fertilizer shall be applied within ten (10) feet of any wetland as defined by the Florida Department of Environmental Protection (Chapter 62-340, Florida Administrative Code, as it may be amended or superseded).

(b) No fertilizer shall be deposited, washed, swept, or blown off, intentionally or inadvertently, onto any impervious surface, public right-of-way, public property, stormwater drain, ditch, conveyance, or water body. 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. Fertilizer released on an impervious surface must be immediately contained and either legally applied to turf or landscape plants or any other legal site, or returned to the original or other appropriate container.

(c) A low-maintenance zone is strongly recommended, though not required, for all areas within ~~six (6)~~ ten (10) feet of the normal high water elevation of any lake, pond, stream, water body, water course or canal, or any wetland, excluding permitted stormwater ponds. Low-maintenance zones should be planted and managed in such a way as to minimize the need for watering, mowing, and other active maintenance. No mowed or cut vegetative material may be deposited or left remaining in this zone or deposited in the water. Care should be taken to prevent over-spray of aquatic weed control products in this zone.

**Section 8. No amendment to Section 15-806.** There is no amendment to Section 15-

806 ("Mode of application."), which shall remain unchanged.

**Sec. 15-806. Mode of application.**

Broadcast spreaders applying fertilizers must be equipped with deflector shields positioned to deflect fertilizer from all impervious surfaces, rights-of-way, stormwater drains, ditches, conveyances, and water bodies.

**Section 9. No amendment to Section 15-807.** There is no amendment to Section 15-

218 807 ("Grass clippings and vegetative material/debris."), which shall remain unchanged.

**Sec. 15-807. Grass clippings and vegetative material/debris.**

220 Grass clippings and/or vegetative material/debris shall not be  
222 deposited, washed, swept, or blown off, intentionally or  
inadvertently, onto any impervious surface, public right-of-way,  
stormwater drain, ditch, conveyance, or water body.

224 **Section 10. Amending Section 15-808.** Section 15-808 ("Exemptions; exceptions.")

is amended to read as follows:

226 **Sec. 15-808. Exemptions; exceptions.**

228 (a) Sections 15-805 through 15-810 of this article shall  
not apply to golf courses; provided, however, fertilizer shall not be  
230 applied to golf courses in excess of the provisions of the Florida  
Department of Environmental Protection ("FDEP") document,  
232 BMPs for the Enhancement of Environmental Quality on Florida  
Golf Courses, January 2007 set forth in Rule 5E-1.003(3), F.A.C.,  
as it may be amended.

234 (b) This article shall not apply to any bona fide farm  
operation that Orange County is without authority to regulate with  
236 regard to fertilizer application pursuant to the Florida Right to  
Farm Act, F.S. (20072016) § 823.14 et seq., or other applicable  
238 state law.

240 (c) This article shall not apply to sports turf areas at  
parks and athletic fields.

**Section 11. Amending Section 15-809.** Section 15-809 ("Commercial training

242 requirements; proof of compliance.") is amended to read as follows:

244 **Sec. 15-809. Commercial-tTraining requirements; proof of  
compliance.**

246 (a) No commercial applicator shall cause fertilizer to be  
applied, except at his or her own residence, without proof of  
248 successful completion of a county approved best management  
practices training program within the previous three (3) years,  
unless he or she is under the direct physical supervision of a person  
250 who has proof of successful completion of such a training program



252 a valid limited certification for urban landscape commercial  
fertilizer application from the Florida Department of Agriculture  
and Consumer Services, as specified in section 15-809(c).

254 (b) Each commercial applicator shall ensure that each  
256 applicator he or she employs has ~~successfully completed a county-~~  
~~approved best management practices training program within one~~  
258 ~~hundred eighty (180) days of initial employment and shall ensure~~  
~~that prior to the successful completion of said program, each~~  
260 ~~employee applicator shall work under the direct physical~~  
~~supervision of a person who has successfully completed said~~  
262 ~~program~~ a valid limited certification for urban landscape  
commercial fertilizer application from the Florida Department of  
264 Agriculture and Consumer Services prior to the application of  
fertilizer.

266 (c) Possession of a valid limited certification for urban  
268 landscape commercial fertilizer application from the Florida  
270 Department of Agriculture and Consumer Services or the Florida  
Department of Environmental Protection's Florida Friendly Best  
Management Practices for Protection of Water Resources by the  
272 Green Industries training by UF/IFAS shall suffice as evidence of  
completion of a county-approved best management practices  
training program.

274 (d) Non-commercial applicators shall provide proof on  
an annual basis of successful completion of the online training  
276 "Orange County Fertilizer Application Education Course for  
Citizens" on the Orange County fertilizer web page.

*Section 12. Amending Section 15-810.* Section 15-810 ("Commercial applicators;  
278 business tax certificate.") is amended to read as follows:

**Sec. 15-810. Commercial applicators; business tax certificate.**

280 Prior to obtaining or renewing an Orange County local  
282 business tax certificate for a business that provides landscape  
284 services, each commercial applicator shall provide proof of  
successful completion from ~~a county-approved best management~~  
~~practices training programs within the previous three (3) years.~~  
286 ~~Commercial applicators who hold an Orange County local business~~  
~~tax certificate as of the effective date of this article shall provide~~  
288 ~~such certificate of completion to the Orange County Tax~~  
~~Collector's office no later than March 1, 2010.~~ Possession of a  
290 valid limited certification for urban landscape commercial fertilizer  
application from the Florida Department of Agriculture and

Consumer Services or the Florida Department of Environmental Protection's Florida Friendly Best Management Practices for Protection of Water Resources by the Green Industries training by UF/IFAS shall suffice as evidence of completion of a county-approved best management practices training program.

**Section 13. No amendment to Section 15-811.** There is no amendment to Section 15-811 ("Variances."), which shall remain unchanged.

**Sec. 15-811. Variances.**

(a) All requests for a variance(s) from the requirements of this article shall be made in writing to the Manager of the Orange County Environmental Protection Division. The manager may require the applicant for a variance to provide such information as necessary to carry out the purpose of this article. The manager may approve, approve with conditions or deny requests for variances. A variance may be granted if strict application of the Orange County Fertilizer Management Ordinance would lead to unreasonable or unfair results in particular instances, provided that the applicant demonstrates with particularity that compliance will result in a substantial economic, health or other hardship on the applicant requesting the variance or those served by the applicant.

(b) Variances may be issued by the manager only upon satisfaction of the following:

- (1) A showing of good and sufficient cause by the applicant that the cause is not self-imposed, and
- (2) A determination by the manager that the variance is the minimum necessary to afford relief, and
- (3) A determination by the manager that failure to grant the variance would result in a practical difficulty or a physical hardship affecting the applicant's economic use of the property, and
- (4) A determination by the manager that the granting of the variance will not result in threats to the health, safety and welfare of the residents of the county or conflict with existing local laws or ordinances.

(c) Any person aggrieved by the decision of the manager may appeal pursuant to the provisions of section 15-38.

328           **Section 14.   No amendment to Section 15-812.** There is no amendment to Section 15-  
812 ("Enforcement and penalty."), which shall remain unchanged.

330           **Sec. 15-812.   Enforcement and penalty.**

332           (a)     It shall be unlawful for any person to violate any  
provision of this article, or any provision of any resolution enacted  
334           pursuant to the authority of this article. Every code enforcement  
officer is authorized to enforce the provisions of this article. Any  
336           person who violates any provision of this article, or any provision  
of any resolution enacted pursuant to the authority of this article,  
shall be subject to the following penalties:

338                     (1) First violation: Written notice.

                      (2) Second violation: Written notice.

340                     (3) Third violation: Fine of fifty dollars (\$50.00).

342                     (4) Fourth and subsequent violations: Fine of one  
hundred dollars (\$100.00)

344           (b)     In addition to the enforcement provisions provided,  
the county may avail itself of any other legal or equitable remedy  
346           available to it including, without limitation, injunctive relief, in the  
enforcement of any provision of this article or any provision of any  
348           resolution enacted pursuant to the authority of this article. Any  
person violating this article shall be held liable for all costs  
350           incurred by the county in connection with enforcing this article, or  
any resolution enacted pursuant to the authority of this article  
including, but not limited to, attorney's fees.

352           **Section 15.   Effective Date.** This ordinance shall take effect pursuant to general law.

354 ADOPTED THIS \_\_\_\_\_ DAY OF June, 2017.

356 **ORANGE COUNTY, FLORIDA**  
By: Board of County Commissioners

358

360 By: \_\_\_\_\_  
Teresa Jacobs  
362 Orange County Mayor

364  
366 ATTEST: Phil Diamond, CPA, County Comptroller  
As Clerk of the Board of County Commissioners

368 By: \_\_\_\_\_  
Deputy Clerk

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372 *S:\GHolmes\Ordinances\Fertilizer (Ch. 15 - Art. XVII)\2017 Update (Fertilizer)\Fertilizer Management - DRAFT v.2017-04-26.doc*