

Chapter 22 - ENVIRONMENTAL AND NATURAL RESOURCES

ARTICLE I. - IN GENERAL

Secs. 22-1—22-50. - Reserved.

ARTICLE II. - FERTILIZER AND LANDSCAPE MANAGEMENT

Sec. 22-51. - Title.

This article may be cited as the "City of North Port Fertilizer and Landscape Management Ordinance".

(Ord. No. 2007-45, § 1, 11-26-2007)

Sec. 22-52. - Findings.

As a result of impairment to waters caused by excessive nutrients, in particularly during the rainy season, the City of North Port has determined improper use and application of fertilizers can pose a particularly high risk for adverse effects to surface and ground water. More-restrictive measures than are otherwise required by the "Florida Green Industries Best Management Practices for Protection of Water Resources in Florida, June 2002," as revised, shall be required by this article.

(Ord. No. 2007-45, § 2, 11-26-2007)

Sec. 22-53. - Short title.

This article is referred to as the "City of North Port Fertilizer and Landscape Management Code."

(Ord. No. 2007-45, § 3, 11-26-2007)

Sec. 22-54. - Purpose and intent.

This article regulates the proper use of fertilizers by any applicator, requires proper training of commercial and institutional fertilizer applicators and establishes a restricted season, fertilizer content, application rates, fertilizer-free zones, recommended low-maintenance zones,

exemptions, training and licensing requirements. The article 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 the City's natural and manmade stormwater and drainage conveyances, lakes, canals, estuaries, interior freshwater wetlands, the Myakkahatchee Creek, the Myakka River and near-shore waters of the Gulf of Mexico. Collectively, these waterbodies are an asset critical to the environmental, recreational, cultural and economic well-being of the City of North Port residents and the health of the public. Overgrowth of algae and vegetation hinder the effectiveness of flood attenuation provided by natural and manmade stormwater and drainage conveyances. Recent red tide blooms and accumulation of red drift algae on local beaches heighten community concerns about water quality and eutrophication of surrounding waters. Regulation of nutrients, including both phosphorus and nitrogen contained in fertilizer, will help improve and maintain water and habitat quality.

(Ord. No. 2007-45, § 4, 11-26-2007)

Sec. 22-55. - 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 City Administrator, or an administrative official of the City government designated by the City Manager to administer and enforce the provisions of this article.

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

Applicator means any person who applies fertilizer on turf and/or landscape plants in the City.

Best management practices means turf and/or landscape practices which minimize the negative environmental impacts of installation and maintenance of landscapes.

Code enforcement officer, official, or inspector means any designated employee or agent of the City whose duty it is to enforce codes and ordinances enacted by the City.

Commercial fertilizer applicator means any person who applies fertilizer on turf and/or landscape plants in the City in exchange for money, goods, services or other valuable consideration.

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, including pesticide/fertilizer mixtures such as "weed and feed" products, 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.

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 noncommercial or 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 and managers 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 six feet wide adjacent to a water course which is planted and managed in order to minimize the need for fertilization, watering, mowing, etc.

Pasture means land used for livestock grazing that is managed to provide feed value.

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.

Restricted season means June 1 through September 30.

The City of North Port Approved Best Management Practices Training Program means a training program approved by the City Administrator that includes, at a minimum, the most current version of the "Florida Green Industries Best Management Practices for Protection of Water Resources in Florida, June 2002," as revised and the more-stringent requirements set forth in this article.

Slow release, controlled release, timed release, slowly available, or 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.

Specialized turf manager means a person responsible for fertilizing or directing the Fertilization of a golf course or publicly owned athletic field.

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

(Ord. No. 2007-45, § 5, 11-26-2007)

Sec. 22-56. - Applicability.

This article shall be applicable to and shall regulate 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 article from the regulatory provisions of this article. This article shall be prospective only, and shall not impair any existing contracts.

(Ord. No. 2007-45, § 6, 11-26-2007)

Sec. 22-57. - Timing of application.

No applicator shall apply fertilizers containing nitrogen and/or phosphorus to turf during the restricted season. Only landscape plants can be fertilized during this restricted season, but the fertilizer content and application rate specified in section 22-58 and the fertilizer-free zone specified in section 22-60, must be observed.

(Ord. No. 2007-45, § 7, 11-26-2007)

Sec. 22-58. - Fertilizer content and application rate.

(1)

No phosphorus fertilizer shall be applied to turf and/or landscape plants within the City at application rates which exceed 0.25 lbs. P_2O_5 /1,000 ft² per application nor exceed 0.50 lbs. P_2O_5 /1,000 ft² per year.

- (2) Fertilizers applied to turf and/or landscape plants within the City shall contain no less than 50 percent slow release nitrogen per guaranteed analysis label.
- (3) Fertilizers should be applied to turf and/or landscape plants at the lowest rate necessary. No more than four pounds of nitrogen per 1,000 square feet shall be applied to any turf/landscape area in any calendar year.

(Ord. No. 2007-45, § 8, 11-26-2007)

Sec. 22-59. - Impervious surface.

Fertilizer shall not be applied, spilled, or otherwise deposited on any impervious surfaces. 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 any other legal site, or returned to the original or other appropriate container. In no case shall fertilizer be washed, swept, or blown off impervious surfaces into stormwater drains, ditches, conveyances, or water bodies.

(Ord. No. 2007-45, § 9, 11-26-2007)

Sec. 22-60. - Fertilizer-free zones.

Fertilizer shall not be applied within ten horizontal feet of the edge of water of any pond, stream, water course, lake or canal. If the distance between the edge of the water and the top of the bank (if clearly delineated) is more than ten feet, then no fertilizer shall be applied past (i.e. waterward of) the top of bank. The more stringent of these two criteria governs. Fertilizer shall not be applied within the wetland or the wetland buffer line. Fertilizer shall not be applied within the flow channel of any swales. Fertilizer shall not be applied within ten feet of the top of a seawall. If more stringent City code or state 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 the first 60-day establishment period.

(Ord. No. 2007-45, § 10, 11-26-2007)

Sec. 22-61. - Low-maintenance zone.

A voluntary six-foot low-maintenance zone is strongly recommended, but not mandated, from the edge of water of any pond, stream, water course, lake or canal or any designated wetland or from the top of a seawall. If more stringent City code or state regulations apply, this provision does not relieve the requirement to adhere to the more stringent regulations. No vegetative material shall be deposited or left remaining in this zone or water. Care should be taken to prevent the over-spray of aquatic weed products in this zone.

(Ord. No. 2007-45, § 11, 11-26-2007)

Sec. 22-62. - Mode of application.

Spreader deflector shields are required when fertilizing via 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.

(Ord. No. 2007-45, § 12, 11-26-2007)

Sec. 22-63. - Management of grass clippings and vegetative material.

In no case shall grass clippings, vegetative material, and/or vegetative debris either intentionally or accidentally be washed, swept, or blown off into stormwater drains, ditches, conveyances, water bodies, or roadways.

(Ord. No. 2007-45, § 13, 11-26-2007)

Sec. 22-64. - Exemptions.

The provisions set forth above in sections 22-51 through 22-63 shall not apply to:

- (1) *Golf courses.* For all golf courses, the provisions of the Florida Department of Environmental Protection (FDEP) document, "BMPs for the Enhancement of Environmental Quality on Florida Golf Courses, January 2007," as updated, shall be followed when applying fertilizer to golf courses. All other specialized turf managers shall use their best professional judgment to apply the concepts and principles embodied in the "Florida Green Industries Best

Management Practices for Protection of Water Resources in Florida, June 2002" while maintaining the health and function of their Turf and Landscape Plants; and

- (2) *[Agricultural purposes.]* Bona fide agricultural purposes as defined in the F.S. § 193.461 who receive an agricultural classification for property tax purposes.
- (3) *[Exceptions.]* The provisions set forth above in sections 22-57 and 22-58 shall not apply to newly established turf and/or landscape plants for the first 60-day period after installation.

(Ord. No. 2007-45, § 14, 11-26-2007)

Sec. 22-65. - Training.

- (1) All applicators of fertilizer within the City, other than private homeowners on their own property, shall abide by and successfully complete a City-approved best management practices training program. This training shall include the most current version of the "Florida Green Industries Best Management Practices for Protection of Water Resources in Florida, June 2002," as revised and shall include the more-stringent requirements set forth in sections 22-57 through 22-64. Upon successful completion, a certificate of completion will be provided. A list of approved training programs shall be maintained by City the City fertilizer management website.
- (2) A vehicle decal shall be affixed and maintained on the exterior of all vehicles and trailers used in connection with the application of fertilizer within the area regulated by this article. The vehicle and trailer decals shall be provided by the City.
- (3) Private homeowners are encouraged to utilize the recommendations of the University of Florida IFAS Florida Yards and Neighborhoods program.

(Ord. No. 2007-45, § 1, 11-26-2007)

Sec. 22-66. - Licensing of commercial applicators.

- (1) In addition to any current or future training or education requirements mandated by the state and/or the City, all commercial fertilizer applicators shall obtain a certificate of completion from a City-approved best management practices training program prior to obtaining a City 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 an approved training program to the City building department within 180 days of the effective date of this article.

- (2) All commercial fertilizer applicators applying for a new or holding an existing local business tax certificate shall ensure that all applicators employed under the tax certificate receive the necessary training in accordance with section 22-55 within 90 days and abide by all provisions of this article. All new employees serving as applicators shall receive the necessary training in accordance with section 22-55 within 90 days of employment and during this 90-day period shall work under the physical supervision of an applicator who has successfully completed a City-approved best management practices training program.

(Ord. No. 2007-45, § 16, 11-26-2007)

Sec. 22-67. - Enforcement and penalty.

Enforcement of this article shall be in accordance with enforcement procedures outlined in North Port Code, chapter 2, article IX, Code Enforcement.

(Ord. No. 2007-45, § 17, 11-26-2007)

Sec. 22-68. - Effective date.

This article shall be effective immediately upon filing with the Office of the Secretary of State of Florida. However, a 180-day implementation period is hereby established in order to accomplish the following:

- (1) The establishment of a City-approved list of best management practices training programs.
- (2) For commercial fertilizer applicators, institutional applicators and other users and applicators of fertilizer as set forth in this article to become familiar with the provisions of this article, provide a reasonable period for compliance with the terms of this article.

No citations, notices to appear, code enforcement notice of violations or other enforcement procedures shall be instituted until a 180-day implementation period has passed; however, warning notices may be issued during the implementation period.

(Ord. No. 2007-45, § 20, 11-26-2007)