

BOARD REPORT TO
FILED

2007 SEP -4 11:11 AM

ORDINANCE NO. 2007-062

SARASOTA COUNTY FERTILIZER AND LANDSCAPE MANAGEMENT CODE

CLERK OF THE COUNTY COURT
SARASOTA COUNTY, FL

AN ORDINANCE REGULATING THE USE OF FERTILIZERS CONTAINING NITROGEN AND/OR PHOSPHORUS WITHIN SARASOTA COUNTY; AMENDING ORDINANCE NO. 2007-053, AS CODIFIED IN SECTIONS 54-1020 THROUGH 54-1030 OF THE SARASOTA COUNTY CODE; AMENDING SECTION 54-1020 RELATING TO ADDITIONAL FINDINGS OF FACT; PROVIDING SHORT TITLE; AMENDING SECTION 54-1022 RELATING TO PURPOSE AND INTENT; AMENDING SECTION 54-1023 WITH ADDITIONAL DEFINITIONS; AMENDING SECTION 54-1024 PROVIDING FOR APPLICABILITY WITHIN UNINCORPORATED SARASOTA COUNTY BUT ALLOWING MUNICIPALITIES TO ADOPT SAME PROVISIONS; CREATING A NEW SECTION 54-1025 RELATING TO TIMING OF APPLICATION; CREATING A NEW SECTION 54-1026 RELATING TO FERTILIZER CONTENT AND APPLICATION RATE; CREATING A NEW SECTION 54-1027 RELATING TO IMPERVIOUS SURFACE; CREATING A NEW SECTION 54-1028 RELATING TO FERTILIZER-FREE ZONES; CREATING A NEW SECTION 54-1029 RELATING TO LOW MAINTENANCE ZONES; CREATING A NEW SECTION 54-1030 RELATING TO MODE OF APPLICATION; CREATING A NEW SECTION 54-1031 RELATING TO MANAGEMENT OF GRASS CLIPPINGS AND VEGETATIVE MATERIAL; RENUMBERING SECTIONS 54-1025 TO 54-1030; RENUMBERING SECTION 54-1025 TO 54-1032 AND AMENDING PROVIDING FOR EXEMPTIONS; CREATING A NEW SECTION 54-1033 RELATING TO TRAINING; RENUMBERING SECTION 54-1026 TO 54-1034 AND AMENDING PROVIDING FOR LICENSING OF COMMERCIAL APPLICATORS; RENUMBERING SECTION 54-1027 TO 54-1035 AND AMENDING PROVIDING FOR ENFORCEMENT AND PENALTY; RENUMBERING SECTION 54-1028 TO 54-1036 PROVIDING FOR CODIFICATION; RENUMBERING SECTION 54-1029 TO 54-1037 PROVIDING FOR SEVERABILITY; RENUMBERING SECTION 54-1030 TO 54-1038 PROVIDING FOR AN EFFECTIVE DATE, INCLUDING AN IMPLEMENTATION PERIOD.

WHEREAS, surface water runoff leaves residential neighborhoods, commercial centers, industrial areas, and other lands of Sarasota County with low permeability soils; and

WHEREAS, baseflow runoff flows from residential neighborhoods, commercial centers, industrial areas, and other lands of Sarasota County with high permeability soils; and

WHEREAS, surface water and baseflow runoff enter into natural and artificial stormwater and drainage conveyances and natural water bodies in Sarasota County; and

WHEREAS, Sarasota County's natural and artificial stormwater and drainage conveyances regulate the flow of stormwater to prevent flooding; and

WHEREAS, the overgrowth of vegetation in stormwater and drainage conveyances hinders the goal of flood prevention; and

WHEREAS, this ordinance is part of a multi-pronged effort by Sarasota County to reduce nutrient leaching into runoff through such policies as, but not limited to, stormwater management, water conservation, conversion from septic systems to central sewage treatment, public education, and development standards as set forth in the Sarasota County Land Development Regulations; and

WHEREAS, the detrimental effects of nutrient-laden runoff are magnified in a coastal community such as Sarasota County, due to the proximity of stormwater and drainage conveyances to coastal waters; and

WHEREAS, nutrient-laden runoff fosters plant and algae growth; and

WHEREAS, leaching and runoff of nutrients from improper or excess fertilization practices can contribute to nitrogen and phosphorus pollution in the County's stormwater and drainage conveyances, and natural water bodies; and

WHEREAS, nitrogen and phosphorus pollution in the County's stormwater and drainage conveyances, and natural water bodies leads to the overgrowth of vegetation in these waterways; and

WHEREAS, the quality of our bays, estuaries, streams, lakes, and the Gulf of Mexico is critical to environmental, economic, and recreational prosperity and to the health, safety, and welfare of the citizens of Sarasota County; and

WHEREAS, recent algae blooms and accumulation of red drift algae on local beaches have heightened community concerns about water quality and eutrophication of surrounding waters; and

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

WHEREAS, nutrients are commonly found in various forms as a Fertilizer for Turf and landscape application; and

WHEREAS, the amount of Fertilizer applied and the method of application of that Fertilizer have a large impact on the potential for creating pollution; and

WHEREAS, the amount of Fertilizer applied should be the minimum necessary for the Turf and landscape to meet initial establishment and growth needs; and

WHEREAS, it is generally recognized that many Florida soils are naturally high in phosphorus; and

WHEREAS, it has been recognized by soil science professionals that the use of slow release nitrogen sources minimizes harmful nitrate leaching; and

WHEREAS, nitrogen from slow release sources is more likely to be used by plants and less likely to leach out or wash away in stormwater runoff.

THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA:

ARTICLE XXXII. FERTILIZER AND LANDSCAPE MANAGEMENT

SECTION 1. This Ordinance amends Ordinance No. 2007-053, as codified in Sections 54-1020 through 54-1030 of the Sarasota County Code.

SECTION 2. Section No. 54-1020 of the Sarasota County Code is hereby amended to read as follows:

SECTION 54-1020. Findings of Fact.

As a result of impairment to Sarasota County waters caused by excessive nutrients under the Florida Impaired Waters Rule, and the imminent start of the rainy season, which is expected to be heavier than normal, the Sarasota County Board of County Commissioners has determined that the lands and waters of Sarasota County are at 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 ordinance.

SECTION 3. Section No. 54-1021 of the Sarasota County Code is hereby restated as follows:

SECTION 54-1021. Short Title.

This Article is referred to as the "Sarasota County Fertilizer and Landscape Management Code."

SECTION 4. Section No. 54-1022 of the Sarasota County Code is hereby restated as follows:

SECTION 54-1022. Purpose and Intent.

This Ordinance regulates the proper use of Fertilizers by any Applicator and requiring proper training of Commercial and Institutional Fertilizer Applicators and by establishing a Restricted Season, fertilizer content and application rates, fertilizer-free zones, low maintenance zones, exemptions, training and licensing requirements. 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 Sarasota County's natural and artificial stormwater and drainage conveyances, lakes, canals, estuaries, interior freshwater wetlands, the Myakka River and nearshore waters of the Gulf of Mexico. Collectively, these waterbodies are an asset critical to the environmental, recreational, cultural and economic well-being of Sarasota County residents and the health of the public. Overgrowth of algae and vegetation hinder the effectiveness of flood attenuation provided by natural and artificial stormwater and drainage conveyances. Recent red tide blooms, 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.

SECTION 5. Section No. 54-1023 of the Sarasota County Code is hereby amended to read as follows:

SECTION 54-1023. 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 Sarasota County Administrator, or an administrative official of Sarasota County government designated by the 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 Sarasota County.

"Article" means Chapter 54, Article XXXII of the Sarasota County Code of Ordinances, as amended, unless otherwise specified.

"Board" means the Board of County Commissioners of Sarasota County, Florida.

"Best Management Practices" means turf and 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 Sarasota County whose duty it is to enforce codes and ordinances enacted by Sarasota County.

“Commercial Fertilizer Applicator” means any Person who applies Fertilizer on Turf and/or Landscape Plants in Sarasota County 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 Plant.

“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 non-commercial 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 (6) feet wide adjacent to water courses 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 1st through September 30th.

“Sarasota County Approved Best Management Practices Training Program” means a training program approved by the Sarasota County 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.

SECTION 6. Section No. 54-1024 of the Sarasota County Code is hereby amended to read as follows:

SECTION 54-1024. 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 Sarasota County, unless such Applicator is specifically exempted by the terms of this Ordinance from the regulatory provisions of this Ordinance. Municipalities may elect to make this Ordinance applicable within their own jurisdictions. This Ordinance shall be prospective only, and shall not impair any existing contracts.

SECTION 7. Section No. 54-1025 of the Sarasota County Code is hereby amended to read as follows:

SECTION 54-1025. Timing of Application.

No Applicator shall Apply Fertilizers containing nitrogen and/or phosphorus to Turf and/or Landscape Plants during the Restricted Season.

SECTION 8. Section No. 54-1026 of the Sarasota County Code is hereby amended to read as follows:

SECTION 54-1026. Fertilizer Content and Application Rate.

(a) No phosphorus Fertilizer shall be Applied to Turf and/or Landscape Plants within Sarasota County at application rates which exceed 0.25 lbs. $P_2O_5/1,000 \text{ ft}^2$ per application nor exceed 0.50 lbs. $P_2O_5/1,000 \text{ ft}^2$ per year.

(b) Fertilizers Applied to Turf and/or Landscape Plants within Sarasota County shall contain no less than 50% Slow Release Nitrogen per Guaranteed Analysis Label.

(c) Fertilizers should be applied to Turf and/or Landscape Plants at the lowest rate necessary. No more than four (4) pounds of nitrogen per one thousand (1,000) square feet shall be applied to

any Turf/landscape area in any calendar year.

SECTION 9. Section No. 54-1027 of the Sarasota County Code is hereby amended to read as follows:

SECTION 54-1027. 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.

SECTION 10. Section No. 54-1028 of the Sarasota County Code is hereby amended to read as follows:

SECTION 54-1028. Fertilizer-Free Zones.

Fertilizer shall not be applied within ten (10) feet of any pond, stream, water course, lake or canal or in any designated wetland or within ten (10) feet of any wetland as defined by the Florida Department of Environmental Protection (Chapter 62-340, Florida Administrative Code) or from the top of a seawall. If more stringent Sarasota 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 the first sixty (60) day establishment period.

SECTION 11. Section No. 54-1029 of the Sarasota County Code is hereby amended to read as follows:

SECTION 54-1029. Low Maintenance Zone.

A voluntary six (6) foot low maintenance zone is strongly recommended, but not mandated, from any pond, stream, water course, lake or canal or any designated wetland or from the top of a seawall. If more stringent Sarasota County Code 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.

SECTION 12. Section No. 54-1030 of the Sarasota County Code is hereby amended to read as follows:

SECTION 54-1030. 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.

SECTION 13. Section No. 54-1031 of the Sarasota County Code is hereby amended to read as follows:

SECTION 54-1031. 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.

SECTION 14. Section No. 54-1025 of the Sarasota County Code is hereby renumbered to 54-1032 and amended to read as follows:

SECTION 54-1032. Exemptions.

The provisions set forth above in Section Nos. 54-1025 through 54-1031 of this Ordinance shall not apply to:

(a) 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

(b) bona fide farm operations as defined in the Florida Right to Farm Act, Section 823.14, Florida Statutes.

(c) The provisions set forth above in Section No. 54-1026(b) of this Article shall not apply to other properties not subject to or covered under the Florida Right to Farm Act that have Pastures used for grazing livestock.

(d) The provisions set forth above in Section Nos. 54-1025 and 54-1026 of this Article shall not apply to newly established Turf and/or Landscape Plants for the first 60 day period after installation.

SECTION 15. Section 54-1033 of the Sarasota County Code is hereby created to read as follows:

SECTION 54-1033. Training.

(a) All Applicators of Fertilizer within the unincorporated area of Sarasota County, other than private homeowners on their own property, shall abide by and successfully complete a Sarasota County 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 54-1025 through 54-1032 of this Article. Upon successful completion, a Certificate of Completion will be provided. A list of approved training programs shall be maintained by Sarasota County on the Sarasota County Fertilizer Management website.

(b) 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 Sarasota County.

(c) Private homeowners are encouraged to utilize the recommendations of the University of Florida IFAS *Florida Yards and Neighborhoods* program.

SECTION 16. Section 54-1026 of the Sarasota County Code is hereby renumbered to 54-1034 and amended to read as follows:

SECTION 54-1034. Licensing of Commercial Applicators.

(a) In addition to any current or future training or education requirements mandated by the State of Florida and/or Sarasota County, all Commercial Fertilizer Applicators shall obtain a Certificate of Completion from a Sarasota County approved Best Management Practices training program prior to obtaining a Sarasota 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 an approved training program to the Sarasota County Tax Collector's office within 180 days of the effective date of this ordinance.

(b) 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 54-1033 of this Article and abide by all provisions of this Article. All new employees serving as Applicators shall receive the necessary training in accordance with Section 54-1033 of this Article 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 Sarasota County approved Best Management Practices training program.

SECTION 17. Section No. 54-1027 of the Sarasota County Code is hereby renumbered to 54-1035 and amended to read as follows:

SECTION 54-1035. Enforcement and Penalty.

It is the intent hereof that the administrative, civil, and criminal penalties imposed through execution of this Article be of such amount as to ensure immediate and continued compliance with this Article.

(a) Sarasota County has the authority to enforce any provision of this Article per Chapter 2, Article VIII of the Sarasota County Code of Ordinances and per provisions of Chapter 162, Florida Statutes. Each day of any such violation shall constitute a separate and distinct offense.

(b) The Code Enforcement Officer or designated inspectors shall be authorized and empowered to make inspections at reasonable hours of all land uses or activities regulated by this Article in order to insure compliance with the provisions of this Article. The Code Enforcement Officer or designated 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.

(c) The Code Enforcement Officer may require corrective actions as a result of the violation activities.

(d) A Code Enforcement Officer is authorized to issue a Citation to a Person when, based upon personal investigation, the Officer has reasonable cause to believe that the Person has violated this Article. Prior to issuing a Citation, a Code Enforcement Officer may provide a Warning Notice to the Person. The Warning Notice shall specify that the Person has committed a violation of this Article and must correct the violation immediately. If, upon personal investigation, a Code Enforcement Officer finds that the Person has not corrected the violation, the Code Enforcement Officer shall issue a Citation to the Person who has committed the violation. If the Person has been previously issued a Warning Notice or Citation for the same prohibited activity, the Code Enforcement Officer may immediately issue a Citation.

(e) After issuing a Citation to an alleged violator, the Code Enforcement Officer shall deposit the original Citation and one copy of the Citation with the Clerk of the Court.

(f) The Person issued the Citation may contest the Citation by contacting the Clerk of the Court within 30 calendar days of the Citation date and requesting a hearing. The Clerk shall then schedule a hearing in the County Court and shall provide written notice of the hearing to the Person and to the Code Enforcement Officer.

(g) If the Person issued the Citation elects not to contest the Citation, the person shall pay the applicable civil penalty to the Clerk of the Court within 30 days after issuance of the Citation.

(h) If the Person issued the Citation neither pays the civil penalty within the time allowed nor requests a hearing to contest the Citation, the Person shall be deemed to have waived their right to contest the Citation and judgment may be entered against the Person for an amount up to the maximum civil penalty.

(i) Willful refusal to sign and accept a Citation issued by a Code Enforcement Officer by the cited Person issued the Citation shall be treated as a misdemeanor of the second degree, punishable as provided by Sections 775.082 and 775.083, Florida Statutes.

(j) The civil penalty for a civil infraction shall not exceed \$500.00 per violation.

(k) By resolution the Board shall establish the amount of any civil penalty for a civil infraction.

(l) Notwithstanding any other provisions of this Article for enforcement or penalties, the Board may also enforce this Article by actions at law or in equity for damages and injunctive relief. In the event the Board prevails in any such action, the Board shall be entitled to an award of its costs.

(m) The County may seek a lien on the property when the Person cited for a violation fails to pay the amount entered as a judgment.

(n) Criminal violations of this Article committed willfully, with reckless indifference, or with gross careless disregard shall be treated as a misdemeanor, and shall be prosecuted and shall be punishable as provided by general law.

SECTION 18. Section No. 54-1028 of the Sarasota County Code is hereby renumbered to 54-1036 as follows:

SECTION 54-1036. Codification.

This ordinance shall be deemed an amendment to the Sarasota County Code of Ordinances.

SECTION 19. Section No. 54-1029 of the Sarasota County Code is hereby renumbered to 54-1037 as follows:

SECTION 54-1037. Severability Clause.

If any section, subsection, sentence, clause, phrase or word of this Article is for any reason, held or declared to be unconstitutional, inoperative, or void, such holding of invalidity shall not affect the remaining portions of this Article; and it shall be construed to have been the intent to adopt this Article without such unconstitutional, invalid, or inoperative part therein; and the remainder of this Article, after the exclusion of such part or parts, shall be deemed to be held valid as if such part or parts had not been included herein.

SECTION 20. Section No. 54-1030 of the Sarasota County Code is hereby renumbered to 54-1038 and amended to read as follows:

SECTION 54-1038. Effective Date.

This Ordinance shall be effective immediately upon filing with the Office of the Secretary of

State of Florida. However, a one hundred eighty (180) day implementation period is hereby established in order to accomplish the following:

(a) The establishment of a Sarasota County approved list of Best Management Practices training programs.

(b) For Commercial Fertilizer Applicators, Institutional Applicators and other users and Applicators of Fertilizer as set forth in this Ordinance to become familiar with the provisions of this Ordinance, provide a reasonable period for compliance with the terms of this Ordinance.

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.

PASSED AND DULY ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA, THIS 27th DAY OF AUGUST 2007, A.D.

BOARD OF COUNTY COMMISSIONERS
OF SARASOTA COUNTY, FLORIDA

By: *Shannon Stark*
Vice Chair

Date: 08-04-07

ATTEST:

Karen E. Rushing, Clerk of the Circuit Court
Ex-Officio Clerk of the Board of County
Commissioners of Sarasota County, Florida

By: *Karen E. Rushing*
Deputy Clerk