

PUBLIC NOTICE

The Belle Glade City Commission will consider adoption of proposed municipal Ordinance, the title of which is as follows:

ORDINANCE NO. 13-12

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF BELLE GLADE, PALM BEACH COUNTY, FLORIDA, ADOPTING CHAPTER 8 "DRAINAGE", ARTICLE III "LANDSCAPING AND VEGETATION MANAGEMENT" TO ADDRESS NUTRIENT LEVELS IN PALM BEACH COUNTY WATER BODIES; PROVIDING FOR THE FOLLOWING: TITLE, DEFINITIONS, FINDINGS, PURPOSE AND INTENT, APPLICABILITY, TIMING OF FERTILIZER APPLICATIONS, FERTILIZER FREE ZONES, FERTILIZER CONTENT AND APPLICATION RATES, FERTILIZER APPLICATION PRACTICES, MANAGEMENT OF GRASS CLIPPINGS AND VEGETATIVE MATTER, EXEMPTIONS, TRAINING, LICENSING OF COMMERCIAL APPLICATORS, ENFORCEMENT, PENALTIES, APPEAL, AND CAPTIONS; AND PROVIDING FOR SEVERABILITY, REPEAL OF LAWS IN CONFLICT, CODIFICATION, AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

Said Ordinance will be considered for second and final reading during the Regular Meeting of the City Commission to be held in City Hall, 110 Dr. Martin Luther King Jr., Blvd., West, Belle Glade, Palm Beach County, Florida at 6:30 p.m., on the 2nd day of December, 2013, or continuing from time to time and place to place as said meetings may be adjourned to hear the public. Copy of said proposed ordinance is available for inspection in the office of the City Clerk located at the aforementioned address.

Should any interested party seek to appeal any decision made by the City Commission with respect to any matter considered at such meetings or hearings, such person will need to insure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. (Reference: Florida Statutes 286.0105)

In accordance with the Americans with Disabilities Act of 1990, persons needing special accommodations to participate in this proceeding should contact the City Clerk at 561-996-0100 no later than 48 hours prior to the proceeding. If hearing impaired, telephone the Florida Relay Service Numbers, 800-955-8771 (TDD) or 800-955-8770 (Voice), for assistance. (Reference: Florida Statutes 286.26)

CITY OF BELLE GLADE
DEBRA R. BUFF, MMC
CITY CLERK

PUBLISH: November 22, 2013, PALM BEACH POST

POSTED IN CITY HALL and BOYS & GIRLS CLUB

FAXED TO: WAFC (AM & FM), WBGF-WSWN

E-MAILED TO: City Manager, Asst to the City Manager, Directors, Managers, City Attorney, PBSO, Palm Beach Post, The Sun and Others

cc: Mayor and Commissioners

DATE POSTED/FAXED/E-MAILED: November 20, 2013

ORDINANCE NO. 13-12

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF BELLE GLADE, PALM BEACH COUNTY, FLORIDA, ADOPTING CHAPTER 8 "DRAINAGE", ARTICLE III "LANDSCAPING AND VEGETATION MANAGEMENT" TO ADDRESS NUTRIENT LEVELS IN PALM BEACH COUNTY WATER BODIES; PROVIDING FOR THE FOLLOWING: TITLE, DEFINITIONS, FINDINGS, PURPOSE AND INTENT, APPLICABILITY, TIMING OF FERTILIZER APPLICATIONS, FERTILIZER FREE ZONES, FERTILIZER CONTENT AND APPLICATION RATES, FERTILIZER APPLICATION PRACTICES, MANAGEMENT OF GRASS CLIPPINGS AND VEGETATIVE MATTER, EXEMPTIONS, TRAINING, LICENSING OF COMMERCIAL APPLICATORS, ENFORCEMENT, PENALTIES, APPEAL, AND CAPTIONS; AND PROVIDING FOR SEVERABILITY, REPEAL OF LAWS IN CONFLICT, CODIFICATION, AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

WHEREAS, the City of Belle Glade, Florida (the "City") is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, Chapter 8 "Drainage" of the City's Code of Ordinances addresses drainage and use and control of the drainage system; and

WHEREAS, pursuant to Section 303(d) of the Federal Clean Water Act and the resulting Florida Impaired Waters Rule (Chapter 62-303, Florida Administrative Code), the Florida Department of Environmental Protection (FDEP) has classified specific water bodies in Palm Beach County as "impaired" as a result of the presence of excessive nutrients; and

WHEREAS, Florida Statutes, Section 403.9337 requires local governments located within the watershed of a water body or water segment that is listed as impaired by nutrients pursuant to Florida Statutes, Section 403.067, to adopt an ordinance for Florida-Friendly™ fertilizer use on urban landscapes; and

WHEREAS, the FDEP on the 2nd day of March 2011, issued its Palm Beach County Municipal Separate Storm Sewer System Permit No. FLS 000018-003 (hereinafter referred to as the "MS4 Permit") to forty-one (41) governmental entities including the City; and

WHEREAS, the MS4 permit requires local governments within the watershed of a nutrient impaired water body to adopt FDEP's Model Ordinance for Florida Friendly Fertilizer Use on Urban Landscapes or an ordinance that includes all the requirements set forth in the model ordinance; and

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

WHEREAS, phosphorus and nitrogen, the primary nutrients associated with the degradation of surface water, are commonly the primary components of fertilizer for turf and landscape application; and

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 Palm Beach County; and

WHEREAS, algae blooms and accelerated growth of aquatic weeds in the City's and other areas in Palm Beach County's water bodies have heightened community concerns about water quality and eutrophication of surrounding waters; and

WHEREAS, it has been recognized that proper application of slow-release nitrogen sources is more efficiently used by plants and less likely to leach or runoff; and

WHEREAS, this ordinance is part of a regulatory program to address nonpoint sources of nutrient pollution which is scientifically based, and economically and technically feasible; and

WHEREAS, in the process of adopting this ordinance, the City has considered scientific information, including input from the Department of Environmental Protection, the Department of Agriculture and Consumer Services, and the University of Florida Institute of Food and Agricultural Sciences; and

WHEREAS, the City Commission has reviewed this proposed ordinance and has determined that its adoption is in the best interest of the public health, safety and general welfare of the City, its residents and visitors.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF BELLE GLADE, FLORIDA, THAT:

Section 1. The foregoing “WHEREAS” clauses are true and correct and are hereby ratified and confirmed by the City Commission.

Section 2. Chapter 8 “Drainage”, Article III “Landscaping and Vegetative Management”, is hereby adopted to read as follows:

ARTICLE III. LANDSCAPING AND VEGETATIVE MANAGEMENT

Sec. 8-50. Title.

This article shall be known as the Fertilizer-Friendly Use Ordinance.

Sec. 8-51. Findings.

As a result of the Florida Department of Environmental Protection’s determination that certain water bodies within Palm Beach County are impaired for excessive nutrient levels, the city finds that the best management practices contained in the most recent edition of the

"Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries", are required by this article.

Sec. 8-52. Purpose and Intent.

This article regulates 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; and specifies allowable fertilizer application rates and methods, fertilizer-free zones, and exemptions. This article requires the use of Best Management Practices to minimize negative environmental effects associated with excessive nutrients in our water bodies. These environmental effects have been observed in and on Palm Beach County's natural and constructed stormwater conveyances, rivers, creeks, canals, lakes, estuaries and other water bodies. Collectively, these water bodies are an asset important to the environmental, recreational, cultural and economic well-being of Palm Beach 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, is anticipated to help improve and maintain water and habitat quality.

Sec. 8-53. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings set forth in this section unless the context clearly indicates otherwise.

Application or apply means the actual physical deposition of fertilizer to turf or landscape plants.

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

Approved test means a soil test from the University of Florida, government, or other commercial licensed laboratory that regularly performs soil testing and recommendations.

Best Management Practices (BMP's) means turf and landscape practices or combination of practices based on research, field-testing, and expert review, determined to be the most effective and practical site-specific means, including economic and technological considerations, for improving water quality, conserving water supplies and protecting natural resources.

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 except as provided in section 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 applicators.

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, or controls soil acidity or alkalinity, or provides other soil enrichment, or provides other corrective measures to the soil.

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 non-native tree, shrub, or groundcover (excluding turf).

Pasture means land managed for livestock grazing.

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, a Tropical Storm Watch or Warning, or a Hurricane Watch or Warning is in effect for any portion of the city issued by the National Weather Service, or if heavy rain (2 inches or more within a twenty-four (24) hour period) is likely.

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

Slow-release, controlled release, timed release, slowly available, or water insoluble nitrogen means nitrogen in a form which delays its availability for vegetative uptake and use after application, or which extends its availability to the vegetation longer than a reference rapid or quick release product.

Turf, sod, or lawn means an area 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 landscape plants. For the purposes of this article, agriculture has the same meaning as provided in section 570.02, Florida Statutes.

Sec. 8-54. Applicability.

This article shall be applicable to and shall regulate any and all applicators of fertilizer and areas of application of fertilizer to urban landscapes within the city, unless such application is specifically exempted by section 8-60 of this article. This article shall be prospective only, and shall not impair any existing contracts.

Sec. 8-55. Timing of Fertilizer Applications.

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. Fertilizer containing nitrogen and/or phosphorus shall not be applied before seeding or sodding a site, and shall not be applied for the first thirty (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 Prevent Plan for that site.

Sec. 8-56. Fertilizer Free Zone.

Fertilizer shall not be applied within ten (10) feet, or three (3) feet if a deflector shield or drop spreader is used, of any pond, stream, water body, lake, canal, or wetland as defined by the Florida Department of Environmental Protection (Chapter 62-14 340), Florida Administrative Code or from the top of a seawall or lake bulkhead. Newly planted turf or landscape plants may be fertilized in this zone only for a sixty (60) day period beginning thirty (30) days after planting if needed to allow the vegetation to become well established. Caution shall be used to prevent direct deposition of fertilizer into the water.

Sec. 8-57. Fertilizer Content and Application Rates.

- (a) Fertilizers applied to turf within the city shall be applied in accordance with requirements and directions provided by Rule 5E-1.003(2), Florida

Administrative Code, Labeling Requirements For Urban Turf Fertilizers. Under Rule 5E-1.003(2), Florida Administrative Code, required application rate and frequency maximums, which vary by plant and turf types, are found on the labeled fertilizer bag or container.

(b) Nitrogen or phosphorus fertilizer shall not be applied to turf or landscape plants except as provided in section (a) above for turf, or in the 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.

(c) Fertilizer used for sports turf at golf courses shall be applied in accordance with the recommendations in "Best Management Practices for the Enhancement of Environmental Quality on Florida Golf Courses", published by the Florida Department of Environmental Protection, dated January 2007, as may be amended. Fertilizer used at park or athletic fields shall be applied in accordance with Rule 5E-1.003(2), Florida Administrative Code.

Sec. 8-58. Fertilizer Application Practices.

(a) As required in section 8-56 of this article, spreader deflector shields shall be used 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. 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.

- (b) 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.
- (c) In no case shall fertilizer be washed, swept, or blown off impervious surfaces into stormwater drains, ditches, conveyances, or water bodies.
- (d) Property owners and managers are encouraged to use an Integrated Pest Management (IPM) strategy as currently recommended by the University of Florida Cooperative Extension Service publications.

Sec. 8-59. Management of Grass Clippings and Vegetative Matter.

In no case shall grass clippings, vegetative material, and/or vegetative debris intentionally be washed, swept, or blown on to or into stormwater drains, ditches, conveyances, water bodies, wetlands, sidewalks or roadways. Vegetative material may be placed within the roadway right-of-way, but not over the storm drains, for pickup by the municipality's vegetative waste hauler.

Sec. 8-60. Exemptions.

The provisions set forth above in this article 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. 8-61. Training.

- (a) All commercial and institutional applicators of fertilizer within the city 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/Palm Beach County Cooperative Extension Service "Florida-Friendly Landscapes" program or an approved equivalent program.
- (b) Non-commercial and non-institutional applicators not otherwise required to be certified, such as private citizens on their own residential property, are encouraged to follow the recommendations of the University of Florida/IFAS "Florida-Friendly Landscape Program" and label instructions when applying fertilizers.

Sec. 8-62. Licensing of Commercial Applicators.

- (a) All businesses applying fertilizer to turf or landscape plants (including, but not limited to, residential lawns, golf courses, commercial properties, and multi-family and condominium properties) must ensure that the business owner or his/her designee holds the appropriate "Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries" training certificate prior to the business owner obtaining a local business tax certificate. Owners for any category of occupation which may apply any fertilizer to turf and/or landscape plants shall provide proof of completion of the program to the city. It is the responsibility of the business owner to maintain the "Florida-

Friendly Best Management Practices for Protection of Water Resources by the Green Industries” certificate to receive their business tax receipt annually.

- (b) After December 31, 2013, all commercial applicators of fertilizer within the city 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 Rule 5E-7 14.117(18), Florida Administrative Code.
- (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) must ensure that at least one (1) employee has an appropriate “Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries” training certificate prior to the business owner obtaining a local business tax certificate.

Sec. 8-63. Enforcement; penalties.

- (a) Enforcement by code enforcement officer. If a code enforcement officer, based upon personal investigation, has reasonable cause to believe that a person has violated any of the provisions under this article, such code enforcement officer may initiate the code enforcement procedures set forth in Sections 2-256 through 2-267 of this Code. A special magistrate may find that a violation under this article is “irreparable or irreversible in nature” as set forth in Fla. Stat. 162.06(4), as is amended from time to time.
- (b) Other enforcement. The city may enforce this article by any other means available at law or in equity.

(c) Penalties. Funds generated by penalties or fines imposed under this article shall be used by the city for the administration and enforcement of Section 403.9337, Florida Statutes, and the corresponding sections of this article, and to further water conservation and nonpoint pollution prevention activities.

Sec. 8-64. Appeal.

An aggrieved party, including the city, may appeal a final administrative order of a special magistrate to the circuit court. Such an appeal shall not be a hearing de novo, but shall be limited to appellate review of the record created before the special magistrate. An appeal shall be filed within thirty (30) days of the execution of the order to be appealed.

Section 3. **Captions.** The captions, section headings, and section designations used in this Ordinance are for convenience only and shall have no effect on the interpretation of the provisions of this Ordinance.

Section 4. **Conflict.** All ordinances or parts of ordinances in conflict be and the same are hereby repealed.

Section 5. **Severability.** Should any section or provision of this ordinance or any portion thereof, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this ordinance.

Section 6. **Codification.** Specific authority is hereby granted to codify this ordinance.

Section 7. **Effective date.** This ordinance shall take effect immediately upon adoption.

ORDINANCE NO. 13-12 CONTINUED

The foregoing Ordinance was moved by Commissioner Burroughs seconded by Vice Mayor Wilkerson and upon being put to the vote, the vote was as follows:

	AYE	NAY
Mayor Wilson	<u>✓</u>	<u> </u>
Vice Mayor Wilkerson	<u>✓</u>	<u> </u>
Commissioner Burroughs	<u>✓</u>	<u> </u>
Commissioner Martin	<u>Absent</u>	<u> </u>
Commissioner Underwood	<u>✓</u>	<u> </u>

PASSED on first reading at Regular Session of the City Commission held on November 18, 2013.

The foregoing Ordinance was moved by Vice Mayor Wilkerson seconded by Commissioner Underwood and upon being put to the vote, the vote was as follows:

	AYE	NAY
Mayor Wilson	<u>✓</u>	<u> </u>
Vice Mayor Wilkerson	<u>✓</u>	<u> </u>
Commissioner Burroughs	<u>✓</u>	<u> </u>
Commissioner Martin	<u>✓</u>	<u> </u>
Commissioner Underwood	<u>✓</u>	<u> </u>

PASSED on second and final reading at Regular Session of the City Commission held on December 2, 2013.



Dianne D. Carter
Debra R. Buff, MMC, City Clerk
Dianne D. Carter, Deputy City Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

Glen J. Torcivia
Glen J. Torcivia, City Attorney

CITY OF BELLE GLADE, FLORIDA

[Signature]
Mayor-Commissioner

[Signature]
Mary Kers Wilkerson

[Signature]

[Signature]

[Signature]
Commissioners