

ORDINANCE NO. 2013- 1

AN ORDINANCE OF THE TOWN OF GLEN RIDGE OF PALM BEACH COUNTY, FLORIDA, FOCUSING ON EXCESSIVE NUTRIENT LEVELS IN PALM BEACH COUNTY WATER BODIES; PROVIDING FOR TITLE; PROVIDING FOR DEFINITIONS; PROVIDING FOR FINDINGS; PROVIDING FOR PURPOSE AND INTENT; PROVIDING FOR APPLICABILITY; PROVIDING FOR TIMING OF FERTILIZER APPLICATIONS; PROVIDING FOR FERTILIZER FREE ZONES; PROVIDING FOR FERTILIZER CONTENT AND APPLICATION RATES; PROVIDING FOR FERTILIZER APPLICATION PRACTICES; PROVIDING FOR MANAGEMENT OF GRASS CLIPPINGS AND VEGETATIVE MATTER; PROVIDING FOR EXEMPTIONS; PROVIDING FOR TRAINING; PROVIDING FOR LICENSING OF COMMERCIAL APPLICATORS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR PENALTIES; PROVIDING FOR APPEAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR ENFORCEMENT; PROVIDING FOR CAPTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

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 Statute, 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 Statute, Section 403.067, adopt an ordinance for Florida-Friendly™ fertilizer use on urban landscapes; and

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

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

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

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

16 **WHEREAS**, the quality of streams, lakes, and wetlands is important to
17 environmental, economic, and recreational prosperity and to the health, safety, and
18 welfare of the residents of Palm Beach County; and

19 **WHEREAS**, algae blooms and accelerated growth of aquatic weeds in Palm
20 Beach County's water bodies have heightened community concerns about water quality
21 and eutrophication of surrounding waters; and

1 **WHEREAS**, it is generally recognized that Eastern Palm Beach County soils
2 naturally have adequate phosphorus content for most vegetative needs and that
3 additional phosphorus is therefore only occasionally needed to create or maintain a
4 vibrant landscape; and

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

7 **WHEREAS**, this Ordinance is part of a regulatory program to address nonpoint
8 sources of nutrient pollution which is scientifically based, and economically and
9 technically feasible; and

10 **WHEREAS**, in the process of adoption of this Ordinance, the Town Council of
11 Glen Ridge has considered scientific information, including input from the Department of
12 Environmental Protection, the Department of Agriculture and Consumer Services, and
13 the University of Florida Institute of Food and Agricultural Sciences.

14 **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE**
15 **TOWN OF GLEN RIDGE, FLORIDA, that:**

16 **SECTION I. TITLE:**

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

18
19 **SECTION II. DEFINITIONS:**

20 For this Ordinance, the following terms shall have the meanings set forth in this
21 section unless the context clearly indicates otherwise.

22 1. "Application" or "Apply" means the actual physical deposition of fertilizer to
23 turf or landscape plants.

1 2. "Applicator" means any person who applies fertilizer on turf and/or
2 landscape plants in the Town of Glen Ridge.

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

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

11 5. "Code Enforcement Officer", "Official", or "Inspector" means any
12 designated employee or agent of the Town of Glen Ridge whose duty it is to enforce
13 codes and ordinances enacted by the Town of Glen Ridge.

14 6. "Commercial Fertilizer Applicator" except as provided in section
15 482.1562(9), F.S., means any person who applies fertilizer for payment or other
16 consideration to property not owned by the person or firm applying the fertilizer or the
17 employer of the applicators.

18 7. "Fertilizing" or "Fertilization" means the act of applying fertilizer to turf,
19 specialized turf, or landscape plants.

20 8. "Fertilizer" means any substance or mixture of substances that contains
21 one or more recognized plant nutrients and promotes plant growth, or controls soil
22 acidity or alkalinity, or provides other soil enrichment, or provides other corrective
23 measures to the soil.

1 9. "Institutional Applicator" means any person, other than a private, non-
2 commercial or a Commercial Applicator (unless such definitions also apply under the
3 circumstances), that applies fertilizer for the purpose of maintaining turf and/or
4 landscape plants. Institutional Applicators shall include, but shall not be limited to,
5 owners, managers, or employees of public lands, schools, parks, religious institutions,
6 utilities, industrial or business sites and any residential properties maintained in
7 condominium and/or common ownership.

8 10. "Landscape Plant" means any native or non-native tree, shrub, or
9 groundcover (excluding turf).

10 11. "Pasture" means land managed for livestock grazing.

11 12. "Person" means any natural person, business, corporation, limited liability
12 company, partnership, limited partnership, association, club, organization, and/or any
13 group of people acting as an organized entity.

14 13. "Prohibited Application Period" means the time period during which a
15 Flood Watch or Warning, a Tropical Storm Watch or Warning, or a Hurricane Watch or
16 Warning is in effect for any portion of the Town of Glen Ridge, issued by the National
17 Weather Service, or if heavy rain (2 inches or more within a twenty-four (24) hour
18 period) is likely.

19 14. "Saturated Soil" means a soil in which the voids are filled with water.
20 Saturation does not require flow. For the purposes of this Ordinance, soils shall be
21 considered saturated if standing water is present or the pressure of a person standing
22 on the soil causes the release of free water.

1 15. "Slow-Release", "Controlled Release", "Timed Release", "Slowly-
2 Available", or "Water Insoluble Nitrogen" means nitrogen in a form which delays its
3 availability for vegetative uptake and use after application, or which extends its
4 availability to the vegetation longer than a reference rapid or quick release product.

5 16. "Turf", "Sod", or "Lawn" means an area of grass-covered soil held together
6 by the roots of the grass.

7 17. "Urban Landscape" means pervious areas on residential, commercial,
8 industrial, institutional, highway rights-of-way, or other nonagricultural lands that are
9 planted with turf or landscape plants. For the purposes of this section, agriculture has
10 the same meaning as provided in section 570.02, Florida Statutes.

11 **SECTION III. FINDINGS:**

12 As a result of the Florida Department of Environmental Protection's determination
13 that certain water bodies within Palm Beach County are impaired for excessive nutrient
14 levels, the Town Council of the Town of Glen Ridge finds that the best management
15 practices contained in the most recent edition of the *"Florida-Friendly Best Management*
16 *Practices for Protection of Water Resources by the Green Industries"*, are required in
17 this Ordinance.

18 **SECTION IV. PURPOSE AND INTENT:**

19 This Ordinance regulates the proper use of fertilizers by any applicator; requires
20 proper training of commercial and institutional fertilizer applicators; establishes training
21 and licensing requirements; establishes a Prohibited Application Period; and specifies
22 allowable fertilizer application rates and methods, fertilizer-free zones, and exemptions.

23 This Ordinance requires the use of Best Management Practices to minimize negative

1 environmental effects associated with excessive nutrients in our water bodies. These
2 environmental effects have been observed in and on Palm Beach County's natural and
3 constructed stormwater conveyances, rivers, creeks, canals, lakes, estuaries and other
4 water bodies. Collectively, these water bodies are an asset important to the
5 environmental, recreational, cultural and economic well-being of Palm Beach County
6 residents and the health of the public. Overgrowth of algae and vegetation hinder the
7 effectiveness of flood attenuation provided by natural and constructed stormwater
8 conveyances. Regulation of nutrients, including both phosphorus and nitrogen
9 contained in fertilizer, is anticipated to help improve and maintain water and habitat
10 quality.

11 **SECTION V. APPLICABILITY:**

12 This Ordinance shall be applicable to and shall regulate any and all applicators of
13 fertilizer and areas of application of fertilizer to urban landscapes within the area the
14 Town of Glen Ridge, unless such application is specifically exempted by Section XII of
15 this Ordinance. This Ordinance shall be prospective only, and shall not impair any
16 existing contracts.

18 **SECTION VI. TIMING OF FERTILIZER APPLICATIONS.**

19 1. No applicator shall apply fertilizers containing nitrogen and/or phosphorus
20 to turf and/or landscape plants during the Prohibited Application Period or to saturated
21 soils.

22 2. Fertilizer containing nitrogen and/or phosphorus shall not be applied
23 before seeding or sodding a site, and shall not be applied for the first thirty (30) days

1 after seeding or sodding, except when hydro-seeding for temporary or permanent
2 erosion control in an emergency situation (wildfire, etc), or in accordance with the
3 Stormwater Pollution Prevent Plan for that site.

4 **SECTION VII. FERTILIZER FREE ZONES:**

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

13 **SECTION VIII. FERTILIZER CONTENT AND APPLICATION RATES:**

14 1. Fertilizers applied to turf within the Town of Glen Ridge shall be applied in
15 accordance with requirements and directions provided by Rule 5E-1.003(2), Florida
16 Administrative Code, *Labeling Requirements for Urban Turf Fertilizers*. Under Rule 5E-
17 1.003(2), Florida Administrative Code, required application rate and frequency
18 maximums, which vary by plant and turf types, are found on the labeled fertilizer bag or
19 container.

20 2. Nitrogen or phosphorus fertilizer shall not be applied to turf or landscape
21 plants except as provided in section (1) above for turf, or in UF/IFAS recommendations
22 for landscape plants, vegetable gardens, and fruit trees and shrubs, unless a soil or
23 tissue deficiency has been verified by an approved test.

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

7 **SECTION IX. FERTILIZER APPLICATION PRACTICES:**

8 1. As required in Section VII of this Ordinance, spreader deflector shields
9 shall be used when fertilizing via rotary (broadcast) spreaders. Deflectors must be
10 positioned such that fertilizer granules are deflected away from all impervious surfaces,
11 fertilizer-free zones and water bodies, including wetlands. Any fertilizer applied, spilled,
12 or deposited, either intentionally or accidentally, on any impervious surface shall be
13 immediately and completely removed to the greatest extent practicable.

14 2. Fertilizer released on an impervious surface must be immediately
15 contained and either legally applied to turf or any other legal site, or returned to the
16 original or other appropriate container.

17 3. In no case shall fertilizer be washed, swept, or blown off impervious
18 surfaces into stormwater drains, ditches, conveyances, or water bodies.

19 4. Property owners and managers are encouraged to use an Integrated Pest
20 Management (IPM) strategy as currently recommended by the University of Florida
21 Cooperative Extension Service publications.

22 **SECTION X. MANAGEMENT OF GRASS CLIPPINGS AND VEGETATIVE MATTER:**

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

6 **SECTION XI. EXEMPTIONS:**

7 The provisions set forth above in this Ordinance shall not apply to:

8 (a) Bona fide farm operations as defined in the Florida Right-to-Farm Act,
9 Section 823.14, Florida Statutes.

10 (b) Other properties not subject to or covered under the Florida Right-to-Farm
11 Act that have pastures used for grazing livestock.

12 (c) Any lands used for bona fide scientific research, including, but not limited
13 to, research on the effects of fertilizer use on urban stormwater, water quality,
14 agronomics, or horticulture.

15 **SECTION XII. TRAINING:**

16 1. All commercial and institutional applicators of fertilizer within Palm Beach
17 County shall abide by and successfully complete the six-hour training program in the
18 "*Florida-Friendly Best Management Practices for Protection of Water Resources by the*
19 *Green Industries*" offered by the Florida Department of Environmental Protection
20 through the University of Florida/Palm Beach County Cooperative Extension Service
21 "Florida-Friendly Landscapes" program or an approved equivalent program.

22 2. Non-commercial and non-institutional applicators not otherwise required to
23 be certified, such as private citizens on their own residential property, are encouraged to

1 follow the recommendations of the University of Florida/IFAS "Florida-Friendly
2 Landscape Program" and label instructions when applying fertilizers.

3 **SECTION XIII. LICENSING OF COMMERCIAL APPLICATORS:**

4 1. All businesses applying fertilizer to turf or landscape plants (including, but
5 not limited to, residential lawns, golf courses, commercial properties, and multi-family
6 and condominium properties) must ensure that the business owner or his/her designee
7 holds the appropriate "*Florida-Friendly Best Management Practices for Protection of*
8 *Water Resources by the Green Industries*" training certificate prior to the business
9 owner obtaining a Local Business Tax Certificate. Owners for any category of
10 occupation which may apply any fertilizer to Turf and/or Landscape Plants shall provide
11 proof of completion of the program to the Town of Glen Ridge Tax Collector's Office. It
12 is the responsibility of the business owner to maintain the "*Florida-Friendly Best*
13 *Management Practices for Protection of Water Resources by the Green Industries*"
14 certificate to receive their Business Tax Receipt annually.

15 2. After December 31, 2013, all commercial applicators of fertilizer within the
16 Town of Glen Ridge, shall have and carry in their possession at all times when applying
17 fertilizer, evidence of certification by the Florida Department of Agriculture and
18 Consumer Services as a Commercial Fertilizer Applicator per Rule 5E-14.117(18),
19 Florida Administrative Code.

20 3. All businesses applying fertilizer to turf and/or landscape plants (including,
21 but not limited to, residential lawns, golf courses, commercial properties and multi-family
22 and condominium properties) must ensure that at least one (1) employee has an
23 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. Standard Business Tax Receipt (BTR and transaction fees shall apply).

SECTION XIV. ENFORCEMENT:

The provisions of this Ordinance shall be enforced by (1) the Town of Glen Ridge Code Enforcement Board or Special Master pursuant to the authority granted by Section 162.01 et. seq., Florida Statutes, as may be amended and Article 10 of the Unified Land Development Code, as may be amended, (2) the Town of Glen Ridge through its authority to enjoin and restrain any person violating the Unified Land Development Code, or (3) the Town of Glen Ridge through the prosecution of violations in the name of the State of Florida pursuant to the authority granted by Section 125.69, Florida Statutes, as may be amended. The Code Enforcement Director may pursue these or any other enforcement remedies available to and applicable to the Town of Glen Ridge.

SECTION XV. PENALTIES:

1. Failure to comply with the requirement of this Ordinance shall constitute a violation of this Ordinance and shall be punishable by a fine not to exceed \$250.00 per incident for the violation or a fine not to exceed \$500.00 per day for a repeat violation, and, in addition, may include all costs of repairs and remediation including administrative costs. Each new day the violation exists it is considered a separate incident.
2. In determining the amount of fines that should be imposed, the Special Master shall consider the following factors: (1) the gravity of the violation; (2) Any

1 actions taken by the violator to correct the violation; and (3) Any previous
2 violations committed by the violator. If the Special Master finds the violation is
3 irreparable or irreversible in nature, a fine not to exceed \$15,000 per violation
4 may be imposed.

5 3. Funds generated by penalties imposed under this Ordinance shall
6 be used for the administration and enforcement of Section 403.9337,
7 Florida Statutes, and the corresponding Sections of this Ordinance, and
8 to further water conservation and nonpoint pollution prevention
9 activities.

10 **SECTION XVI. APPEAL:**

11 An aggrieved party, including the Town of Glen Ridge, may appeal a final
12 administrative order of a Special Master to the circuit court. Such an appeal shall not be
13 a hearing de novo, but shall be limited to appellate review of the record created before
14 the Special Master. An appeal shall be filed within thirty (30) days of the execution of
15 the order to be appealed.

16 **SECTION XVII. SEVERABILITY:**

17 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is
18 for any reason held by a Court of competent jurisdiction to be unconstitutional,
19 inoperative, or void, such holding shall not affect the remainder of this Ordinance.

20 **SECTION XVII. INCLUSION IN THE CODE OF LAWS AND ORDINANCES:**

21 The provisions of this Ordinance shall become and be made a part of the Town
22 of Glen Ridge Code. The sections of this Ordinance may be renumbered or re-lettered

1 to accomplish such, and the word "ordinance" may be changed to "section", "article", or
2 other appropriate word.

3 **SECTION XIX. CAPTIONS:**

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

6 **SECTION XXI. EFFECTIVE DATE:**

7 The provisions of this Ordinance shall become effective upon filing with the
8 Department of State.

9 FIRST READING this 6th day of February, 2013.

10 SECOND READING and FINAL PASSAGE this 6th day of March, 2013.

11 **TOWN OF GLEN RIDGE, FLORIDA**

12
13 Alan McNamee
14 MAYOR

15 Kevin Keller
16 COUNCIL MEMBER

17 James C. Essey
18 COUNCIL MEMBER

19 [Signature]
20 COUNCIL MEMBER

21 John M. Dodson
22 COUNCIL MEMBER

23 [Signature]
24 COUNCIL MEMBER

25
26 ATTEST

27 Michelle Sule
28 TOWN CLERK
29