

ORDINANCE NO. 602

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF OCEAN RIDGE, FLORIDA, AMENDING ITS CODE OF ORDINANCES, AT CHAPTER 66 ARTICLE IV, LANDSCAPING, BY CREATING A NEW DIVISION 5 – FLORIDA-FRIENDLY USE OF FERTILIZER – SECTIONS 66-162 to 66-170; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town's surface waters may be impaired due to excessive nutrients or as a result of increasing levels of nitrogen in the surface and/or ground water within the aquifers or springs within Town boundaries; and

WHEREAS, the Town Commission has determined that the use of fertilizers on lands within Town boundaries creates a risk to contributing to adverse effects on surface and/or ground water; and

WHEREAS, the Town Commission finds that fertilizer management measures contained in the most recent edition of the "*Florida-friendly Best Management Practices for Protection of Water Resources by the Green Industries, 2008*," may be required by this ordinance.; and

WHEREAS, the Town Commission finds that regulation of nutrients, including both phosphorus and nitrogen contained in fertilizer, will help improve and maintain water and habitat quality; and

WHEREAS, the Town Commission of the Town of Ocean Ridge, Florida, hereby finds this ordinance to be in the best interests of the public health, safety, and welfare of the citizens of Ocean Ridge.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF OCEAN RIDGE, FLORIDA, AS FOLLOWS:

SECTION 1 - Findings of Fact: The **WHEREAS** clauses set forth above are adopted herein as findings of fact.

SECTION 2 -- Creation of New Divisions :

Chapter 66, Environmental Regulations, Article IV, Landscaping is hereby amended to create a new Division 5 entitled – "Florida-Friendly Use of Fertilizer" Sections 66-162 – 66-170, and shall provide in its entirety as follows:

Division V - FLORIDA-FRIENDLY USE OF FERTILIZER

66-162 DEFINITIONS

(a) For this Division, the following terms shall have the meanings set forth in this section unless the context clearly indicates otherwise.

(1) "Administrator" means the Town Manager, or an administrative official of the Town designated by the Town Manager to administer and enforce the provisions of this Article.

(2) "Application" or "Apply" means the actual physical deposit of fertilizer to turf or landscape plants.

(3) "Applicator" means any Person who applies fertilizer on turf and/or landscape plants within Town boundaries.

(4) "Board or Governing Board" means the Town Commission.

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

(6) "Code Enforcement Officer, Official, or Inspector" means any designated employee or agent of the Town whose duty it is to enforce codes.

(7) "Commercial Fertilizer Applicator", except as provided in 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 applicator.

(8) "Fertilize" "Fertilizing" or "Fertilization" means the act of applying fertilizer to turf, specialized turf, or landscape plants.

(9) "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.

(10) "Guaranteed Analysis" means the percentage of plant nutrients or measures of neutralizing capability claimed to be present in a fertilizer.

(11) "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.

(12) "Landscape Plant" means any native or exotic tree, shrub, or groundcover (excluding turf).

(13) "Low Maintenance Zone" means an area a minimum of ten (10) feet wide adjacent to water courses which is planted and managed in order to minimize the need for fertilization, watering, mowing, etc.

(14) "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.

(15) "Prohibited Application Period" means the time period during which a Flood Watch or Warning, or a Tropical Storm Watch or Warning, or a Hurricane Watch or Warning is in effect for any portion of the Town, issued by the National Weather Service, or if heavy rain is likely.

(16) "Approved Best Management Practices Training Program" means a training program approved per F.S. 403.9338, that includes the most current version of the Florida Department of Environmental Protection's *"Florida-friendly Best Management Practices for Protection of Water Resources by the Green Industries, 2008"*.

(17) "Saturated soil" means a soil in which the voids are filled with water. Saturation does not require flow. For the purposes of this ordinance, 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.

(18) "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. "Turf," "Sod," or "Lawn" means a piece of grass-covered soil held together by the roots of the grass.

(19) "Turf," "Sod," or "Lawn" means any surface layer of earth containing a dense growth of grass and its matted roots.

(20) "Urban landscape" means pervious areas on residential, commercial, industrial, institutional, highway rights-of-way, or other nonagricultural lands that are planted with turf or horticultural plants.

66-163 Applicability of Division.

This Division shall be applicable to and shall regulate any and all applicators of fertilizer and areas of application of fertilizer within Town boundaries unless such applicator is specifically exempted by the terms of this Ordinance from the regulatory provisions of this Division. The provisions of this Division shall be prospective only, and shall not impair any contracts in existence at the time of the enactment of the Ordinance creating this Division.

66-164 Timing of Fertilizer Application.

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.

66-165 Fertilizer Free Zones.

Fertilizer shall not be applied within ten (10) feet of any pond, stream, watercourse, lake, canal, or wetland as defined by the Florida Department of Environmental Protection (Chapter 62-340, Florida Administrative Code) or from the top of a seawall, unless a deflector shield, drop spreader, or liquid applicator with a visible and sharply defined edge, is used, in which case a minimum of 3 feet shall be maintained. Newly planted turf and/or landscape plants may be fertilized in this Zone only for a sixty (60) day period beginning 30 days after planting if needed to allow the plants to become well established. Caution shall be used to prevent direct depositing of nutrients into the water.

66-166 Low Maintenance Zones.

A voluntary ten (10) foot low maintenance zone is strongly recommended, but not mandated, from any pond, stream, water course, lake, wetland or from the top of a seawall. A swale/berm system is recommended for installation at the landward edge of this low maintenance zone to capture and filter runoff. 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 the over-spray of aquatic weed products in this zone.

66-167 Application Practices.

- (a) Spreader deflector shields are required 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.
- (b) Fertilizer shall not be applied, spilled, or otherwise deposited on any impervious surfaces.
- (c) 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.
- (d) 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.

- (e) In no case shall fertilizer be washed, swept, or blown off impervious surfaces into stormwater drains, ditches, conveyances, or water bodies.

66-168 Management of Grass Clippings and Vegetative Matter.

In no case shall grass clippings, vegetative material, and/or vegetative debris be washed, swept, or blown off into stormwater drains, ditches, conveyances, water bodies, wetlands, or sidewalks or roadways. Any material that is accidentally so deposited shall be immediately removed to the maximum extent practicable.

66-169 Exemptions.

The provisions of sections 66-162 through 66-170 shall not apply to 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.

66-170 Certification and Licensing Requirements of Commercial Applicators.

- (a) All businesses applying fertilizer to turf and/or landscape plants (including but not limited to residential lawns, commercial properties, and multi-family and condominium properties) must ensure that at least one employee has a "Florida-friendly Best Management Practices for Protection of Water Resources by the Green Industries" training certificate offered by the Florida Department of Environmental Protection through the University of Florida IFAS "Florida-friendly Landscapes" program, or an approved equivalent program, prior to applying fertilizer within Town boundaries.
- (b) After December 31, 2013, all commercial applicators of fertilizer applying fertilizer within Town boundaries, 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 5E-14.117(18) F.A.C.
- (c) Any commercial applicators of fertilizer, applying fertilizer within Town boundaries, must comply with all Town Codes.

SECTION 3 – Severability: In the event any section, paragraph, sub-paragraph, sentence, clause, phrase or word of this Ordinance shall be declared invalid, illegal or unenforceable by a court of competent jurisdiction, such declaration shall not affect the validity of the remaining portions hereof.

SECTION 4 - Repeal of Ordinances: Any ordinance in conflict herewith, to the extent of such conflict, is hereby repealed.

SECTION 5 – Codification: This Ordinance shall be incorporated in and shall be included in the Town's Code of Ordinances.

SECTION 6 - Effective Date: This Ordinance shall become effective immediately upon adoption.

FIRST READING this 1st day of April, 2013.

SECOND AND FINAL READING this 6th day of May, 2013.

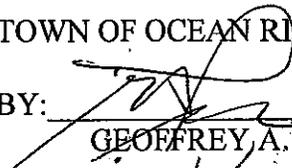
Commissioner Hennigan offered the foregoing Ordinance and its adoption. The motion was seconded by Commissioner Brookes and upon being put to a vote, the vote was as follows:

GEOFFREY A. PUGH, Mayor	<u>Yea</u>
DR. LYNN L. ALLISON, Vice Mayor	<u>Yea</u>
GAIL ADAMS AASKOV Commissioner	<u>Absent</u>
ED BROOKES, Commissioner	<u>Yea</u>
ZOANNE HENNIGAN, Commissioner	<u>Yea</u>

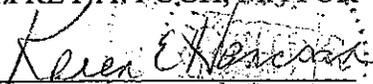
The Mayor thereupon declared this Ordinance approved and adopted by the Town Commission of the Town of Ocean Ridge, Florida, on second reading, this 6th day of May, 2013.

TOWN OF OCEAN RIDGE, FLORIDA

BY:


GEOFFREY A. PUGH, MAYOR

ATTEST:


TOWN CLERK