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Sec. 67.430. Purpose and intent.

The purpose and intent of this article is to provide for the regulation of landscape management practices and the application of fertilizers containing nitrogen and/or phosphorus and to provide specific guidelines for landscaping and fertilization in order to meet Federal and State mandated water quality standards and to minimize the negative environmental effects said fertilizers have in and on Martin County's lakes, canals, estuaries, interior freshwater wetlands, the St. Lucie Estuary, Indian River Lagoon, Loxahatchee River and near shore waters of the Atlantic Ocean. Collectively these waterbodies are a natural asset, which are critical to the environmental, recreational, cultural and economic wellbeing of Martin County and the surrounding areas and contribute to the general health and welfare of the public. Regulation of nutrients, including both phosphorus and nitrogen contained in fertilizer, entering the waterbodies in and around Martin County is a crucial step towards improving and maintaining water and habitat quality.

(Ord. No. 895, pt. 1, 7-26-2011)

Sec. 67.431. Definitions.

The following words, terms, and phrases when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrator means the Martin County Administrator, or an administrative official of the County 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 the County.

Best management practices (BMPs) 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.

Code Enforcement Officer, Official, or Inspector means any designated employee or agent of the County whose duty it is to enforce codes and ordinances enacted by the County.

Commercial applicator, except as provided in F.S. § 482.1562(9), 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.

Commercial applicator business means any person, sole proprietor, partnership, corporation, business trust, joint venture, or other legal entity that engages in the business of providing lawn fertilizer application in exchange for money, goods, services or other valuable consideration.

County means Martin County.

County Approved Best Management Practices Training Program means a training program approved per F.S. § 403.9338, or any more stringent requirements set forth in this article that includes the Florida

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Department of Environmental Protection's "Florida-friendly Best Management Practices for Protection of Water Resources by the Green Industries."

Fertilize, fertilizing or fertilization means the act of applying fertilizer to turf, specialized turf or landscape plants.

Fertilizer means any substance 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.

Impervious surfaces means a constructed surface, such as sidewalks, roads, parking lots or driveways, covered by water-impenetrable materials such as asphalt, concrete, brick, pavers, stone and/or highly compacted soils.

Institutional applicator means any person, other than a noncommercial 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 and managers, caretakers 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).

Lawn care and maintenance or landscaping shall include, but not be limited to, mowing, trimming, pruning, edging, liming, fertilizing, mulching, seeding and aerating of turf and/or landscaping plants.

Noncommercial applicator means any person other than a commercial or institutional applicator who performs lawn care and maintenance on turf and/or landscape plants in Martin County, such as an individual owner or tenant of a single-family residential unit.

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.

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 a fertilizer containing a plant nutrient in a form which delays its availability for plant uptake and use after application, or which extends its availability to the plant significantly longer than a referenced "rapidly available nutrient fertilizer" such as ammonium nitrate or urea, ammonium phosphate or potassium chloride.

Specialized turf means areas of grass used for athletic fields, activity fields, parks, golf course practice and play areas, cemeteries and other similar areas.

Specialized turf manager means a person responsible for fertilizer or directing the fertilization of "specialized turf" as defined above.

Turf, sod or lawn means a piece 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 horticultural plants. For the purposes of this section, agriculture has the same meaning as in F.S. § 570.02.

Water body or water bodies means any visible, standing or open body of water. This shall include, but not be limited to: municipal or private storm sewer systems (including inlets, conveyances and structures), ditches, swales, canals, creeks, rivers, streams, tidal waters, lakes, ponds, ponded water, standing water, marshes, swamps or any other body of permanent or temporary standing or visible water

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whether or not the water body is natural or manmade or contained by impervious surfaces on the bottom or sides and all wetlands and other surface waters as defined by Chapter 62-348, F.A.C.

(Ord. No. 895, pt. 1, 7-26-2011; Ord. No. 963, pt. 1, 10-7-2014)

Sec. 67.432. Application.

This article shall be applicable to and shall regulate any and all applicators of fertilizer and areas of application of fertilizer within unincorporated Martin County, 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. 895, pt. 1, 7-26-2011)

Sec. 67.433. Training and licensing of commercial applicators.

- A. All commercial, and institutional applicators within the unincorporated area of Martin County, shall abide by and successfully complete training and continuing education requirements 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, Institute of Food and Agricultural Sciences (UF/IFAS) "Florida-friendly Landscapes" program, prior to obtaining a local business tax certificate for any category of occupation which may apply any fertilizer to turf and/or landscape plants.
- B. All commercial applicators within the unincorporated area of Martin County 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. 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 employee has a "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.
- D. The County in cooperation with University of Florida, Martin County Extension Service Urban Horticulture and Natural Resource Educators or other Martin County Extension Service approved organizations will schedule and conduct all training.
- E. It is the certificate holder's responsibility to seek any state required renewals. The County is not obligated to furnish the certificate holder with a reminder notice that renewal is necessary.

(Ord. No. 895, pt. 1, 7-26-2011; Ord. No. 963, pt. 1, 10-7-2014)

Sec. 67.434. Best management practices for home owners/tenants, commercial businesses and institutional landscapers.

- A. *Fertilizer content and application rate.*
 - 1. *Phosphorus and nitrogen content.*
 - a. No fertilizers containing phosphorus shall be applied to turf or landscape plants in unincorporated Martin County unless a soil or plant tissue deficiency of "low" or "very low" is verified by a UF/IFAS approved testing methodology. When a deficiency has been verified,

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the application of fertilizer containing phosphorus shall be in accordance with the rates and directions for the Southern Region of Florida as provided by Rule 5E-1.003, Florida Administrative Code. Deficiency verification shall be no more than two years old. However, when compost, manure, or top soil has been applied within 90 days more recent testing to verify current deficiencies shall be required. A "very low" designation for phosphorus set forth in the UF/IFAS Extension Soil Testing Laboratory Analytical Procedures Training Manual shall mean phosphorus levels below ten parts per million. A "low" designation for phosphorus shall mean phosphorus levels below 25 parts per million.

- b. Fertilizers containing nitrogen applied to turf and/or landscaping plants within unincorporated Martin County shall contain no less than 50 percent slow release nitrogen per guaranteed analysis label.

2. *Application rate.*

- a. Fertilizers containing nitrogen or phosphorus should be applied to turf and/or landscape plants at the lowest amount or rate necessary to correct or prevent nutrient deficiencies without exceeding the maximum per application rate specified on the label. Fertilizer shall not be applied at a rate greater than requirements and directions provided by Rule 5E-1.003(2), Florida Administrative Code, Labeling Requirements For Urban Turf Fertilizers. All commercial and institutional applicators shall be responsible for maintaining a record of the pounds of nitrogen and phosphorus expressed as pounds per 1,000 square feet of land applied to each site during the year.
- b. Unless otherwise specified in this article, fertilizers applied to turf within Martin County shall be formulated and applied in accordance with requirements and directions provided by Rule 5E-1.003, Florida Administrative Code, Labeling Requirements For Urban Turf Fertilizers.
- c. Fertilizer containing nitrogen or phosphorus shall not be applied before seeding or sodding a site, and shall not be applied for the first 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 prevention plan for that site.
- d. No applicator shall apply fertilizers containing nitrogen and/or phosphorus to turf and/or landscape plants during prohibited application periods, or to saturated soils.

3. *Prohibited application period.* No fertilizer containing nitrogen or phosphorus shall be applied between June 1 and September 30. Additionally, no fertilizer shall be applied during a flood watch or warning, or a tropical storm watch or warning, or a hurricane watch or warning, as issued by the National Weather Service, or if heavy rains (in excess of two inches in 24 hours) are expected.

- B. *Total yearly applications.* While single fertilizer applications in the fall and spring will often suffice, fertilizers shall not be applied more than the fertilization guidelines for the southern region of Florida under the Florida Department of Agriculture and Consumer Services rule (5E-1.003 F.A.C.) during any one calendar year to a single area.
- C. *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. 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.
- D. *Fertilizer free zone.* No fertilizer shall be applied in or within 25 feet from the edge of any water body or sea wall or in any designated wetland or within 25 feet of any wetland as defined by the Florida Department of Environmental Protection (Chapter 62-340 F.A.C.). Newly planted turf and/or landscape plants may be fertilized in this zone only for a 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 input of nutrients into the water.

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- E. *Mode of application.* Spreader deflector shields are required when fertilizing by use of any broadcast spreaders. Deflectors must be positioned such that fertilizer granules are deflected away from all impervious surfaces, fertilizer free zone, buffer zone, and waterbodies, including wetlands.
- F. *No-mow zone.* A voluntary ten foot no-mow zone is strongly recommended, but not mandated, from the water's edge of any pond, stream, water body, lake, canal, wetland or from the top of a seawall. This zone may receive periodic maintenance to remove or control invasive or exotic species. No vegetative material shall be deposited or left remaining in this zone or deposited in adjacent waters. Care should be taken to prevent the over-spray of aquatic weed products in this zone.
- G. *Management of grass clippings and vegetative material.* In no case shall grass clippings and/or vegetative material, either intentionally or accidentally, be washed, swept, or blown off into stormwater drains, ditches, conveyances, water bodies, roadways, or other impervious surfaces. Grass clippings should be blown back onto the lawn areas or removed.

(Ord. No. 895, pt. 1, 7-26-2011; Ord. No. 963, pt. 1, 10-7-2014)

Sec. 67.435. Exemptions to landscaping best management practices.

- A. The timing of applications, application rate provisions and other provisions set forth above in section 67.434 of this article shall not apply to:
 - 1. Vegetable gardens, provided they are not within ten feet of any waterbody and/or wetland;
 - 2. Yard waste compost, mulches or other similar materials that are primarily organic in nature and are applied to improve the physical condition of the soil; or
 - 3. Reclaimed, or irrigation quality (IQ) water used for irrigation (which may contain substantial amounts of nitrogen and phosphorus).
- B. All golf courses shall assure that landscaping is done within the provisions of the Florida Department of Environmental Protection document, "Best Management Practices for the Enhancement of Environmental Quality on Florida Golf Courses." These provisions shall be followed when applying fertilizer to golf course practice and play areas.
- C. For all other specialized turf areas the managers shall use their best professional judgment to apply the concepts and principles embodied in the Florida Green BMPs, while maintaining the health and function of their specialized turf areas.

(Ord. No. 895, pt. 1, 7-26-2011; Ord. No. 963, pt. 1, 10-7-2014)

Sec. 67.436. Commercial and institutional applicator requirements.

- A. If applying fertilizer in accordance with section 67.434, commercial applicators, commercial applicator businesses and institutional applicators shall maintain documentation to support said exemption(s). If applying fertilizer in accordance with section 67.434, commercial applicators, commercial applicator businesses and institutional applicators shall also possess a record of the soil test indicating the amount of phosphorus present. Said records shall be kept in the commercial applicators, commercial applicator businesses and institutional applicator's possession or vehicle(s) and available for inspection by County staff during all business hours or while applicator is working onsite.
- B. Commercial applicators, commercial applicator businesses and institutional applicators shall allow the County to obtain a sample of any fertilizer applied or to be applied within the County upon request. If the sample analysis shows that nitrogen and/or phosphorus content does not comply with the levels

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permitted by section 67.434, enforcement action may be taken in accordance with section 67.440, and the cost of analyzing fertilizer samples shall be remitted to the County within 30 days after invoicing.

(Ord. No. 963, pt. 1, 10-7-2014)

Editor's note— Ord. No. 963, pt. 1, adopted Oct. 7, 2014, renumbered the former §§ 67.436 and 67.437 as §§ 67.437 and 67.438 and enacted a new § 67.436 as set out herein. The historical notation has been retained with the amended provisions for reference purposes.

Sec. 67.437. Soil test information.

The UF-IFAS Extension Soil Testing Laboratory in Gainesville, Florida, offers a variety of tests for mineral soils, container media and irrigation water. The "Landscape and Vegetable Garden Producer Test" is recommended for both private and commercial clients fertilizing plants on the landscape, primarily home horticulture.

A soil sampling bag, one bag for each soil sample, and a shipping box in which to send samples to the US-IFAS Extension Soil Testing Laboratory can be obtained free of charge from the Martin County Cooperative Extension Service Office, 2614 SE Dixie Hwy, Stuart, Florida 34996 (772-288-5654). To determine the availability and cost of soil fertility tests contact the Martin County Cooperative Extension Service Office. A PDF version of the landscape and vegetable garden test submission form can be obtained at <http://soilslab.ifas.ufl.edu/>.

(Ord. No. 895, pt. 1, 7-26-2011; Ord. No. 963, pt. 1, 10-7-2014)

Note— See the editor's note to § 67.436.

Sec. 67.438. Agriculture and scientific research.

Nothing in this article shall be construed to regulate or limit fertilizing for:

- A. Bona fide farm operations as defined in the Florida Right to Farm Act, F.S. § 823.14;
- B. Other properties not subject to or covered under the Florida Right to Farm Act that have pastures used for grazing livestock; or
- 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.

(Ord. No. 895, pt. 1, 7-26-2011; Ord. No. 963, pt. 1, 10-7-2014)

Editor's note— Ord. No. 963, pt. 1, adopted Oct. 7, 2014, renumbered the former § 67.438 as § 67.440. The historical notation has been retained with the amended provisions for reference purposes. See also the editor's note to § 67.436.

Sec. 67.439. Notice to consumers.

- A. Any business that sells fertilizer shall post a notice provided by the County stating that the use of lawn and landscape fertilizers in unincorporated Martin County is restricted in accordance with this chapter.

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(Ord. No. 963, pt. 1, 10-7-2014)

Sec. 67.440. Enforcement and penalty.

- A. Violations of this article may be prosecuted and punished as misdemeanors pursuant to F.S. § 125.69.
- B. This article may be enforced in accordance with F.S. ch. 162 and Chapter 1, Article 4, of the Martin County Code of Ordinances.
- C. Notwithstanding any other provision of this article, the County may also enforce this article by actions at law or in equity for damages and injunctive relief. In the event the County prevails in any such action, the County shall be entitled to an award of costs and attorney's fees.

(Ord. No. 895, pt. 1, 7-26-2011; Ord. No. 963, pt. 1, 10-7-2014)

Note— See the editor's note to § 67.438.