

## Chapter 13 REGULATION OF THE USE OF FERTILIZERS CONTAINING NITROGEN OR PHOSPHORUS\*

\* Editor's Note—Ordinance 1710-12 adopted June 6, 2012 created this new Chapter 13.

### Sec. 13-1. Purpose and Intent

The City of Punta Gorda, Florida declares its support for the reasonable regulation and control of fertilizers containing nitrogen and/or phosphorus and hereby provides specific management requirements for the application of fertilizers in order to minimize the negative environmental effects said fertilizers may have in and on Southwest Florida lakes, canals, estuaries, interior wetlands, rivers and near shore waters of the Gulf of Mexico. Collectively these water bodies are a natural asset, which are critical to the environmental, recreational, cultural and economic well being of this region 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 water bodies in this region is a crucial step towards improving and maintaining water and habitat quality.

### Sec. 13-2. Definitions

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

**Applicator** means any person who applies, in any manner, fertilizer to turf and/or landscape plants as defined in this Chapter.

**Code Enforcement Officer** means any designated employee or agent of the City of Punta Gorda, Florida whose duty it is to enforce the Punta Gorda Code, including any department head as defined in Chapter 9A, Sections 9A-4(a) and (b), Punta Gorda Code.

**Commercial Fertilizer Applicator** means any person who applies fertilizer on turf and/or landscape plants in the City of Punta Gorda, Florida in exchange for money, goods, services or other valuable consideration.

**Fertilize, Fertilizing or Fertilization** means the act of applying fertilizer to a lawn "turf" specialized turf or landscape plant.

**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 promotes other corrective measures to 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 private, non-commercial or Commercial Fertilizer Applicator (unless such definitions also apply under the circumstances), that applies fertilizer for the purpose of maintaining turf and/or landscape plants in the City of Punta Gorda, Florida. 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, golf courses or athletic fields and any residential properties maintained in condominium and/or common ownership.

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

**Non-Commercial Fertilizer Applicator** means any person other than a Commercial Fertilizer Applicator or Institutional Applicator who applies fertilizer on turf and/or landscape plants in the City of Punta Gorda, Florida, such as an individual owner of a single-family residential unit.

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

**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 Release Nitrogen" product. Forms of Slow Release, Controlled Release, Slowly Available or Water Soluble Nitrogen include, but are not limited to:

- (a) Isobutylidene diurea (IBDU);
- (b) Resin, Polymer or Sulpher coated urea;
- (c) Biosolids or residuals from domestic wastewater treatment;
- (d) Urea formaldehyde;
- (e) Composted animal manure; and
- (f) Others as may be designated by the appropriate governmental entities.

**Slow Release Landscape Management Plan** is a service specific schedule and checklist plan that includes contractor requirements, timing of service specifications including mowing, trimming, edging, fertilizing schedule that uses only slow release fertilizer, pH control, weed control, pest control, seeding, pruning, mulch management, herbicide use and irrigation.

**Turf** means a piece of grass-covered soil held together by the roots of the grass, sod or lawn.

**Sec. 13-3. Applicability; Regulations Relating to Timing of Fertilizer Application; Content and Application Rate; Impervious Surfaces; Buffer Zones and Mechanical Application**

- (a) Applicability. This Chapter shall be applicable to and shall regulate any and all applicators of fertilizer and areas of application of fertilizers within the incorporated area of the City of Punta Gorda, Florida unless such applicator is specifically exempted under this Chapter.
- (b) Timing of Application. No applicator shall apply fertilizers containing nitrogen and/or phosphorus to turf and/or landscape plants during the "rainy season" (defined as June 1 through September 30 of each calendar year).
- (c) Fertilizer Content and Application Rate. Fertilizer containing phosphorus shall not be applied to turf and/or landscape plants within the City of Punta Gorda at application rates which exceed 0.25 pounds  $P_2O_5$ /1,000 square feet per application nor exceed 0.50 pounds  $P_2O_5$ /1,000 square feet per year.
  - (1) Fertilizers applied to turf and/or landscape plants within the City of Punta Gorda shall contain no less than fifty (50) percent slow release nitrogen per guaranteed analysis label.
  - (2) Fertilizers should be applied to turf and/or landscape plants at the lowest rate necessary.
  - (3) Nitrogen Content. Applicators shall follow and not exceed Florida Department of Agriculture and Consumer Services, Urban Turf Fertilizer Rule 5E-1.003 Labels or Tags' Fertilization Guidelines for Established Turf-grass Lawns South Region Nitrogen Recommendations for nitrogen pounds per 1,000 square feet total per year:
    - a. Bahia-grass: Two (2) to four (4) pounds.
    - b. Bermuda-grass: Two (2) to four (4) pounds.
    - c. Centipede-grass: Two (2) to three (3) pounds.
    - d. St. Augustine-grass: Four (4) pounds.
  - (4) Total Yearly Applications. While single fertilizer applications in the fall and spring will often suffice, fertilizers shall not be applied more than six (6) times during any one calendar year to a single area. A Controlled Release Management Plan is strongly recommended.
  - (5) Impervious Surfaces. 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, landscape plants and/or any other legal site, or returned to the original or other appropriate containers. In no case shall fertilizers be washed, swept or blown off impervious surfaces into stormwater drains, ditches, conveyances or water bodies.

- (6) Buffer Zones. No fertilizer shall be applied within ten (10) feet, or three (3) feet if a deflector shield is used, of any pond, stream, water course, lake, retention area, drain and drainage ditches, canal, any wetland as defined by Florida Department of Environmental Protection (Chapter 62-340, Florida Administrative Code) or from the top of a seawall.
  - a. In no case shall grass clippings, vegetative material and/or vegetative debris either intentionally or accidentally, be deposited or discharged into stormwater drains, ditches, conveyances, water bodies or roadways.
- (7) Mechanical Application. Spreader deflector shields are required when fertilizing by use of any broadcast spreader. Deflectors must be positioned such that fertilizer granules are deflected away from all impervious surfaces, buffer zones and water bodies including wetlands.

#### **Sec. 13-4. 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, sidewalks or roadways. Any material that is accidentally so deposited shall be immediately removed to the maximum extent practicable.

#### **Sec. 13-5. Exemptions**

Chapter 13, Section 13-3, Subsections (a)-(c) of this Chapter 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.
- (b) Athletic fields. For athletic fields applicators are encouraged 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.
- (c) Agricultural operations. Bona fide farm operations as defined in the Florida Right to Farm Act, F.S. section 823.14. Additionally, this section 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) Turf and/or landscape plants. Shall be exempt from the requirements of this section during the first sixty (60) days after installation or planting, providing documentation for newly established turf and/or landscape plants is maintained to support this exemption. Pursuant to this exemption, newly planted turf and/or landscape plants may be fertilized in the buffer zone identified in subsection (c)(3) during the sixty-day establishment period.

### **Sec. 13-6. Training**

- (a) All commercial and institutional applicators of fertilizer within the incorporated area of the City of Punta Gorda, Florida shall abide by and successfully complete the six (6) 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 Extension "Florida-Friendly Landscapes" program, or an approved equivalent. Persons working as employees and under the direct and physical supervision of commercial or institutional applicators who hold a current certificate of completion shall be exempted from this training requirement.
- (b) Private, non-commercial applicators are encouraged to follow the recommendations of the University of Florida IFAS "Florida Yards and Neighborhoods" program when applying fertilizers.

### **Sec. 13-8. Enforcement**

- (a) Upon the request of any City of Punta Gorda Code Enforcement Officer, all applicators shall be required to provide to such Code Enforcement Officer the label for the fertilizer being applied to assure compliance with this Chapter. Failure to provide the label upon request shall constitute a violation of this Chapter.
- (b) Any person, firm or corporation, whether they be the owner, lessee, sublessor, sublessee or occupant of any premises, or any agent of the foregoing who violates any provision of this Chapter, shall be guilty of a noncriminal infraction. Violators will be subject to the issuance of a citation imposing the following penalties: First Violation – Warning; Second Violation - \$50.00; Each Subsequent Violation - \$100.00. Each day during which a violation of this Chapter shall occur shall constitute a separate offense. Citations may be appealed to the City of Punta Gorda Code Enforcement Board in the manner provided thereon and within ten (10) days from the date of the Citation.