

SWFRPC Resolution #07-01

Southwest Florida Regional Planning Council Fertilizer Resolution

A RESOLUTION SUPPORTING THE REGULATED USE OF FERTILIZERS CONTAINING NITROGEN AND/OR PHOSPHORUS WITHIN SOUTHWEST FLORIDA; PROVIDING SPECIFIC RECOMMENDATIONS AND GUIDELINES TO BE CONSIDERED BY LOCAL GOVERNMENT JURISDICTIONS FOR THE REGULATION AND CONTROL OF FERTILIZER APPLICATION; PROVIDING RECOMMENDED DEFINITIONS; PROVIDING RECOMMENDATIONS RELATING TO TIMING OF FERTILIZER APPLICATION, CONTENT AND APPLICATION RATE, IMPERVIOUS SURFACES, BUFFER ZONES AND MECHANICAL APPLICATION; PROVIDING RECOMMENDED EXEMPTIONS; PROVIDING RECOMMENDATIONS FOR LICENSING OF COMMERCIAL AND INSTITUTIONAL APPLICATORS; PROVIDING RECOMMENDATIONS FOR PUBLIC EDUCATION PROGRAMS; PROVIDING RECOMMENDATIONS RELATING TO THE RETAIL SALE OF FERTILIZER; PROVIDING RECOMMENDATIONS FOR APPEALS, ADMINISTRATIVE RELIEF AND PENALTIES; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Southwest Florida is a region where the water quality of the bays, estuaries, rivers, lakes, wetlands, bayous and the Gulf of Mexico is critical to the region's environmental, economic, and recreational prosperity and to the health, safety and welfare of the citizens of this region;

WHEREAS, recent increased frequency and duration of red tide blooms and increased accumulation of red drift algae on local beaches and other algae and water related problems have heightened community concerns about water quality and cultural eutrophication of surrounding waters;

WHEREAS, there is a need to develop a stronger knowledge of the connection between activities in yards, streets, and stormwater systems and natural water bodies among all those who live, work and recreate in the Southwest Florida Region;

WHEREAS, this resolution is part of a multi-pronged effort by the Southwest Florida Regional Planning Council to reduce nutrient leaching and runoff problems by actions including, but not limited to, stormwater management, water conservation, septic systems, central sewage treatment, public education, restoration of surface and groundwater levels; and regional drainage of native habitats;

WHEREAS, nutrients are essential elements for plant growth and are commonly used in various forms as a Fertilizer for lawns (Turf), specialized Turf and landscape application;

WHEREAS, leaching and runoff of nutrients from improper or excess fertilization practices can contribute to nitrogen and phosphorus pollution of the Southwest Florida's water resources;

WHEREAS, the amount of Fertilizer applied should be the minimum necessary for the lawn (Turf), specialized Turf and Landscape Plants to meet initial establishment and growth needs;

WHEREAS, it has been recognized by soil science professionals that the use of slow release nitrogen sources acts to minimize harmful nitrate leaching;

WHEREAS, nitrogen from slow release sources is more likely to be used by plants and less likely to leach into groundwater or wash away in stormwater runoff;

WHEREAS, the amount of Fertilizer applied and the method of application of that Fertilizer has a great impact on the potential for creating water pollution; and

NOW, THEREFORE, BE IT RESOLVED by the Southwest Florida Regional Planning Council that the following provisions are recommended to local government jurisdictions in Southwest Florida as a basis for controlling, regulating and monitoring the use and application of Fertilizers in Southwest Florida:

SECTION 1: PURPOSE AND INTENT

- A. The Southwest Florida Regional Planning Council declares its support for the reasonable regulation and control of Fertilizers containing nitrogen and/or phosphorus and hereby provides specific management guidelines for Fertilization in order to minimize the negative environmental effects said Fertilizers 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. Recent red tide blooms, accumulation of red drift algae on local beaches, and the freshwater releases from Lake Okeechobee via the Caloosahatchee River have heightened community concerns about water quality and eutrophication of estuary, bay, river and coastal waters. 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.**
- B. The purpose of this Resolution is to provide specific recommendations and guidelines to be considered by local government jurisdictions in Southwest Florida for the regulation and control of Fertilizer application containing nitrogen and/or phosphorus.**

SECTION 2: RECOMMENDED DEFINITIONS

The following are the minimum recommended definitions and the words, terms, and phrases when used in this Resolution shall have the meanings ascribed to them in this section, 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 resolution.

Blended Fertilizer means a simple physical mixture of dry fertilizer materials. In blended fertilizers, the individual particles remain separate in the mixture, and there is a potential for segregation of the nutrients.

Commercial Fertilizer Applicator means any Person who applies Fertilizer on Turf and/or Landscape Plants in Southwest 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 provides other corrective measures to the soil.

Granulated Fertilizer means a solid, homogenous mixture of fertilizer materials. Each uniform-size fertilizer particle contains all of the nutrients in the grade.

Institutional Applicator means any Person, other than a Non-Commercial or 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 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).

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 Southwest Florida, such as an individual owner of a single-family residential unit.

Person means any natural Person and shall also mean any business, corporation, 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 Insoluble Nitrogen* include:

- 1) Isobutylidene diurea (IBDU);
- 2) Resin, Polymer, or Sulpher coated urea;
- 3) Biosolids or residuals from domestic wastewater treatment;
- 4) Urea formaldehyde;
- 5) Composted animal manure; and
- 6) 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

Specialized Turf Manager means a Person responsible for fertilizing or directing the fertilization of a golf course or publicly owned ball field.

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

SECTION 3: RECOMMENDATIONS RELATING TO TIMING OF FERTILIZER APPLICATION; CONTENT AND APPLICATION RATE; IMPERVIOUS SURFACES; BUFFER ZONES; AND MECHANICAL APPLICATION

A. 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 July 1 through September 30 of each calendar year).

B. Fertilizer Content and Application Rate

- 1) No Fertilizer shall be applied to Turf and/or Landscape Plants within Southwest Florida that contains more than 2% phosphorous or other compounds containing phosphorous, such as phosphate, per guaranteed analysis label (as guaranteed analysis and label are defined by Chapter 576 Florida Statutes, such definition incorporated herein). The use of no phosphorus Fertilizer is strongly encouraged, as Florida soils typically contain sufficient phosphorus for a healthy native or man-made landscape

- 2) Fertilizer applied to Turf and/or Landscape Plants within the Southwest Florida must contain no more than 20% total nitrogen, with at least 70% as Slow Release Nitrogen per guaranteed analysis label (as guaranteed analysis and label are defined by Chapter 576 Florida Statutes, such definition incorporated herein).
- 3) Fertilizer applied to Turf and/or Landscape Plants within Southwest Florida must be slow release, granulated fertilizer. Blended fertilizer shall not be applied.
- 4) Fertilizers should be applied to Turf and/or Landscape Plants at the lowest rate necessary without exceeding the maximum weight per application. Fertilizer shall not be applied at a rate greater than one (1) pound of nitrogen per 1000 square feet per application. No more than four (4) pounds of nitrogen per one thousand (1000) square feet shall be applied to any Turf/landscape area in any calendar year.

The above provisions are also applicable to and regulate the application of pesticide/Fertilizer mixtures, including, but not limited to, "weed and feed" products.

C. 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 Landscape Management Plan is strongly recommended.

D. 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.

E. Buffer Zones

No Fertilizer shall be applied within 25 feet of any pond, stream, water course, lake, retention areas, drains and drainage ditches or canal, 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. defines Florida Wetland as "Those areas that are inundated or saturated by surface water or ground water at a frequency and a duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soils").

F. Mechanical 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 and water bodies, including wetlands.

SECTION 4: RECOMMENDED EXEMPTIONS

A. Section 3, Subsections (A)-(C) of this Resolution shall not apply to:

- 1) Newly established Turf and/or Landscape Plants for the first 60 days after installation or planting, provided documentation for newly established Turf and/or Landscape Plants is maintained to support this exemption;
- 2) Damaged Turf and/or Landscape Plants for a period of 60 days and only on the damaged areas, provided documentation for damaged Turf and/or Landscape Plants is maintained to support this exemption;
- 3) Areas where soil tests confirm, and such tests are confirmed and approved by the local government Natural Resources Director or designee, that phosphorous levels are below 10 parts per million. This is equivalent to a "very low" designation for phosphorus set forth in UF/IFAS Extension Soil Testing Laboratory Analytical Procedures Training Manual (Circular 1248, September 2002);
- 4) Vegetable gardens, provided they are not within 25 feet of any water body and/or wetland;
- 5) 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; and
- 6) Reclaimed water used for irrigation provided it is not used within 25 feet of any water body and/or wetland.

B. For all golf courses, the provisions of the Florida Department of Environmental Protection document, "*Best Management Practices for the Enhancement of Environmental Quality on Florida Golf Courses*" January 2007, as updated, shall be followed when applying Fertilizer to golf course practice and play areas. This document can be accessed on-line on the Florida Department of Environmental Protection website at <http://www.dep.state.fl.us>. All other Specialized Turf Managers shall use their best professional judgment 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 Specialized Turf areas. The Florida Department of Agriculture and Consumer Services, division of agricultural and Environmental

Services is in the process of developing Rule 5E-1.003 providing clarification of existing language and establishing labeling criteria for urban lawn or Turf Fertilizer products and adoption of Best Management Practices for Nitrogen applications for the Green Industry and the Golf Course Industry, under the authority of 576.181 F.S. and implemented in 576.021 F.S.

- C. All commercial agricultural activities as defined by the Florida Department of Agriculture and Consumer Services, Division of Agriculture and Environmental Sciences are exempt from the recommendations of this resolution. The use of fertilizer and the Best Management Practices (BMP) for commercial agriculture activities is regulated and managed under the authority of the Florida Department of Agriculture and Consumer Services, Division of Agriculture and Environmental Sciences shall be followed when applying fertilizer to agricultural areas.

SECTION 5: RECOMMENDATION FOR LICENSING OF COMMERCIAL AND INSTITUTIONAL APPLICATORS.

- A. In the absence of any uniform licensing requirements by the State government for Commercial and Institutional Fertilizer Applicators, it is recommended that, in addition to any current or future training or education requirements mandated by the State or local governments, that each local government jurisdiction establish a licensing procedure that will provide for the regulation and monitoring of Fertilizer use by Commercial and Institutional Applicators. After the implementation of such licensing procedure, no Commercial Fertilizer Applicator or Institutional Fertilizer Applicator shall apply Fertilizer without obtaining a license from the appropriate governmental licensing entity (hereinafter such Person referred to as "Licensee"). Persons working as employees under the direct supervision of landscapers or other contractors who hold a License shall be exempt, provided that such landscaper or other contractor holds a current, valid license.
- B. Upon compliance with the requirements set forth in this section, and upon payment of any local government application fee established to recover the application costs of the governmental entity, the applicant would be issued a Commercial/Institutional Applicator License. Thereafter, as continuing conditions and requirements of such Commercial/Institutional Applicator License, such Person, and all Persons working or providing services under the authority granted to such Licensee:

- 1) Shall apply Fertilizer to Turf and/or Landscape Plants in accordance with all provisions of this Resolution.
- 2) Shall be responsible for maintaining a record of the pounds of nitrogen, expressed as pounds per 1,000 square feet of land, applied to each site by the Licensee during the year. If applying Fertilizer under any exemption or administrative variance, the Licensee shall also maintain documentation to support said exemption(s) or variance. If applying Fertilizer in accordance with Section 4(A)(3) of this Resolution, the Licensee shall also possess a record of the soil test indicating the amount of phosphorus present and a copy of the approved exemption. Said records shall be kept in the Licensee's possession or vehicle(s) and available for inspection by local staff during all business hours or while the Licensee is at a customer's site.
- 3) Shall permit the local government to obtain a sample of any Fertilizer applied or to be applied within the jurisdiction of the local government. If the sample analysis shows that nitrogen and/or phosphorus content does not comply with the levels permitted by this Resolution, enforcement may be taken in accordance with the terms of this regulation, and the cost of analyzing Fertilizer samples taken from Commercial Fertilizer Applicators or Institutional Applicators shall be reimbursed by said Applicator to the local government within thirty (30) days after invoicing.
- 4) A Licensee with a Commercial/Institutional Fertilizer Applicator License shall be on-site at all times when Fertilizers are being applied.

After the initial Commercial/Institutional Fertilizer Applicator License is received, renewal of the Commercial/Institutional Fertilizer Applicator License shall be renewed on an annual basis. Failure of a Licensee to comply with the provisions of the applicable Regulation or Ordinance shall constitute grounds to suspend a license, or to deny renewal of such license.

SECTION 6: RECOMMENDED PUBLIC EDUCATION PROGRAM

- A. Public Education is highly recommended regarding the appropriate use of Fertilizers. Local governments will work with the IFAS Cooperative Extension staff to offer "Fertilizer Application" courses to all current and future Applicators wishing to obtain the Commercial/Institutional Fertilizer Applicator License.
- B. A general education program will be coordinated with local media to advise the public on the proper use of Fertilizer and the environmental and health problem associated with mis-use. Such education program will be based upon and utilize materials from the Florida Yards and Neighborhoods Program (FY&N).

The objectives of the FY&N program are to:

- reduce stormwater runoff
- decrease non-point source pollution
- conserve water
- enhance wildlife habitat
- create beautiful landscapes

FY&N encourages homeowners to water efficiently, mulch, recycle, select the least toxic pest control measures, put the right plant in the right spot, Fertilize only when necessary, provide food, water and shelter for wildlife, protect surface water bodies (i.e., bays, rivers, streams, ponds, etc.) and minimize stormwater runoff.

SECTION 7: RECOMMENDATIONS RELATING TO THE RETAIL SALE OF FERTILIZER

Retail businesses within the jurisdiction selling Fertilizer shall post a notice in a conspicuous location near the Fertilizer notifying customers of the limitation on the use of Fertilizer containing greater than 2% phosphorus and/or greater than the 20% total nitrogen with a 70% minimum Slow Release nitrogen requirement.

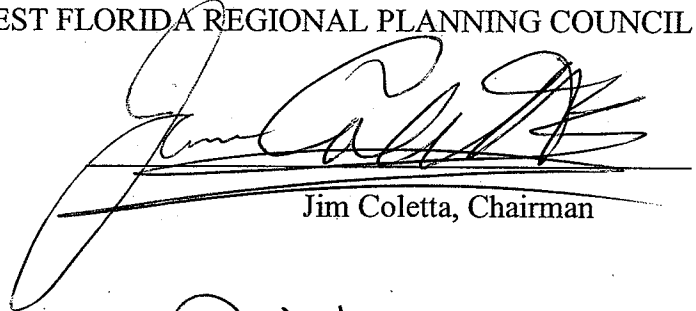
SECTION 8: RECOMMENDATIONS FOR APPEALS, ADMINISTRATIVE RELIEF AND PENALTIES.

Each local government jurisdiction should establish provisions for appeals of administrative decisions and/or denials, provisions for administrative relief in the event of unique circumstances not addressed by local government Fertilizer regulations, and penalty and enforcement provisions necessary to accomplish the goals and objectives of the local jurisdiction's Fertilizer regulations.

NOTE: Please note that these provisions do not address farming operations or tree/plant nurseries. (Although the definition of "Fertilize" refers to lawn, Specialized Turf or Landscape Plant).

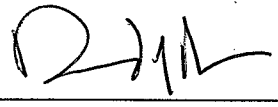
PASSED AND DULY ADOPTED BY THE SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL this 15th day of March, 2007.

SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL



Jim Coletta, Chairman

ATTEST:



David Burr, Executive Director

