

Leon County Board of County Commissioners

Agenda Item #26

May 11, 2021

To: Honorable Chairman and Members of the Board

From: Vincent S. Long, County Administrator

Title: First and Only Public Hearing to Consider Adopting an Ordinance Amending Article XIV of Chapter 10 of the Leon County Code of Law, Entitled "Fertilizer Use"

Review and Approval:	Vincent S. Long, County Administrator
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator Ken Morris, Assistant County Administrator Barry Wilcox, Director, Development Support & Environmental Management
Lead Staff/ Project Team:	Nawfal Ezzagaghi, Director, Environmental Services

Statement of Issue:

This item requests the Board conduct the first and only required public hearing to consider adopting an Ordinance amending the County's Fertilizer Ordinance to incorporate the current State Model and Florida Administrative Code requirements.

Fiscal Impact:

This item has no fiscal impact.

Staff Recommendation:

Option #1: Conduct the first and only Public Hearing and adopt the proposed Ordinance amending Article XIV of Chapter 10 of the Leon County Code of Law, Entitled "Fertilizer Use" (Attachment #1).

Report and Discussion

Background:

On July 14, 2020, the Board directed staff to conduct a review of Leon County fertilizer regulations to determine whether an update was needed. On September 29, 2020 the Board accepted a status report and directed staff to update the County’s Fertilizer Ordinance. During its February 16, 2021 regular meeting, the Board authorized staff to schedule the first and only Public Hearing for the proposed Ordinance amending Article XIV of Chapter 10 of the Leon County Code of Law, Entitled “Fertilizer Use”.

Since the Board’s February 16, 2021 meeting, staff has worked extensively with various community stakeholders and made several revisions that captured and addressed the majority of the expressed concerns. Although the latest revisions are supported by the Big Bend Sierra Club, the Science Advisory Committee, and the Water Resources Committee, the Florida Chapter of the Sierra Club remains in opposition to the proposed Ordinance for lacking a fertilizer prohibition during the summer months. As detailed in the analysis section, the summer months are the optimal time to use fertilizer to support root growth and nutrient uptake.

The Fertilizer Ordinance regulates the proper use of fertilizers by any fertilizer applicator within the unincorporated areas of Leon County, provides maximum fertilizer application rates, provides fertilizer free zones and low maintenance zones, requires proper training for commercial and institutional fertilizer applicators, and provides for certification of commercial and institutional fertilizer applicators. It should be noted that the County is preempted from regulating fertilizer applications on agricultural lands, as those properties are regulated by best management practices instituted by the Florida Department of Agriculture and Consumer Services.

Analysis:

Leon County’s Fertilizer Ordinance was created to reduce sources of nutrients coming from urban landscapes, thereby reducing the impact of nutrients on surface and groundwaters. The County’s current Fertilizer Ordinance is based on the State of Florida Model Fertilizer Ordinance as it existed in 2009. Since adoption of the County’s current Ordinance, the State Model Ordinance has been updated. Staff reviewed the current State Model Ordinance to determine what opportunities may exist to improve the County’s Fertilizer Ordinance and ensure consistency with the state model.

In addition, staff reached out to a broad spectrum of local community partners representing different interests, such as the Big Bend Sierra Club and commercial fertilizer applicators. Several concerns were expressed, and solutions to address these concerns resulted in the following additional proposed modifications to the draft ordinance presented to the Board on February 16, 2021.

Fertilization Prohibition Periods

After working with various community partners, the summer prohibition issue became the main topic for discussion. The concept prohibits fertilizer use during the summer months with a goal of

preventing fertilizer from washing downstream to surface waters due to heavy rainfall periods. While such a prohibition would seem prudent, there is currently no consistent data to support reduced nitrogen loading to both surface and groundwater where summertime fertilizer bans are in place. In fact, the science supports the opposite. The optimal time to fertilize is in the summer months when the turfgrass shoot and root growth is optimal and nutrient uptake is at its highest point. University of Florida/Institute of Food and Agricultural Sciences (IFAS) research found that when fertilizer is applied to healthy, actively growing turf, very little nitrate leaches from the system. Inability to apply the fertilizer during these months can result in soil erosion, loss of ability to filter stormwater runoff, and increased weed encroachment.

While there are Florida counties that have adopted a prohibition period, Pinellas County went a step further by requiring retailers to remove fertilizer products from their shelves to comply with the prohibition. This resulted in the Legislature preempting local governments from requiring the removal of any fertilizer products from the shelf. Pinellas County is the only jurisdiction that was grandfathered in before the Legislature enacted the preemption. While other counties have adopted a prohibition period for the application of fertilizer, there is no enforcement ability to prohibit retail sales.

To address the application of fertilizer ahead of forecasted heavy storms, the following underlined text was added to the draft Ordinance: "No applicator shall apply fertilizer...if rain greater than or equal to one (1) inch in twenty-four hour period is forecasted." Although this modification was supported by the local representative of the Big Bend Sierra Club, and received support from the Science Advisory Committee and the Water Resource Committee, it should be noted that it was adamantly rejected by representatives of the Florida Chapter Sierra Club.

Application Rates:

- The application rates previously presented were modified (lowered) to capture the IFAS recommendation to apply fertilizer to turf and/or landscape plants at the lowest rate necessary. In this case, the table identifying fertilization guidelines for established turfgrass lawns within the unincorporated areas of the County was revised to reflect the following:

Species	Annual Nitrogen (lbs. N /1000 ft ² / Year)	Annual IFAS Range Recommendations (lbs. N / 1000 ft ² / Year)
Bahia Grass	1	1 - 3
Bermuda Grass	3	3 - 5
Centipede Grass	0.4	0.4 - 2
St. Augustine Grass	2	2 - 4
Zoysia Grass	2	2 - 3

- Application rates for nitrogen were revised (lowered) to 0.5 lbs. of readily available nitrogen per 1000 ft², and no more than 1 lb. per 1000 ft² at any one time.
- A prohibition to applying nitrogen during the winter months was added.

- A prohibition to applying fertilizer containing phosphorus unless a deficiency in the soils is verified via a soil analysis test performed by a State of Florida certified laboratory, was added.
- A prohibition to applying nitrogen fertilizer before seeding or sodding a site, and not for the first 30 days after seeding or sodding, was added.
- Granular fertilizers containing nitrogen applied to turf and/or landscape plants within the County shall contain no less than fifty (50) per cent slow-release nitrogen.
- Liquid fertilizers containing nitrogen applied to turf and/or landscape plants within the County shall not be applied at a rate that exceeds 0.5 pounds per one thousand (1,000) square feet per application, was added.

Fertilization Prohibition Area:

- Similarly, as a result of multiple meetings with concerned parties, the Fertilizer free zone was modified from ten (10) feet to fifteen (15) feet, with a clarification in regard to the point of reference for measurements (i.e., top of the bank of any pond). This, in combination with the supplemental text prohibiting the application of fertilizer ahead of any forecast of 1" rainfall within the span of twenty-four hours, will address the potential for runoff carrying the fertilizer into adjacent waterbodies, wetlands, etc.
- The following text was removed: "*Newly planted turf and/or landscape plants may be fertilized in this zone only for the first sixty (60) day establishment period, beginning thirty (30) days after planting if needed to allow the plants to become well established*", as it allowed the establishment of newly planted turf and landscaping within the buffer area, which is not allowed by the Environmental Management Act (EMA).
- Within the Low maintenance zones, the width was also modified from ten (10) feet to fifteen (15) feet.

Exemptions:

- The underlined text was added to ensure clarification: "*Other properties not subject to or covered under the Florida Right to Farm Act that have pastures primarily used for grazing livestock...*"
- Proposed additional exemption, as recommended by the Florida Chapter Sierra Club:
 - "*Tree trunk injection fertilization treatment that are performed by a certified arborist.*"
 - "*Vegetable gardens, owned by individual property owners or a community, provided that fertilizer application rates do not exceed UF/IFAS recommendations per SP103 Florida Vegetable Gardening Guide, December 2008, as revised.*"

Training and Certification:

- To ensure training and certification requirements capture all prospective applicators, the following underlined text was added: "... *all applicators of fertilizer, including private, commercial and government employees within the unincorporated area of the county...*"
- All applicators, excluding homeowners applying fertilizer on their property, shall be trained and certified, and therefore the underlined text was added: "*All individuals applying fertilizer shall hold a current county approved best management practices training certificate.*"

Summary

Since the Board's February 16, 2021 meeting, staff has worked extensively with various community stakeholders and made several revisions that captured and addressed the majority of the expressed concerns. The main remaining objection is associated with the lack of a fertilizer prohibition during the summer months which is adequately addressed by other revisions that were introduced to the original draft Ordinance as listed above.

The Planning Commission reviewed the proposed Ordinance and found it, with a unanimous vote, to be consistent with the Comprehensive Plan and recommended that the Board of County Commissioners adopt the proposed Ordinance.

An outreach plan will be developed in concert with IFAS and the Leon County Office of Sustainability, to ensure the necessary outreach is provided to educate citizens with the proper and sustainable fertilizing practices.

This public hearing has been advertised pursuant to Florida Statutes (Attachment #2).

Options:

1. Conduct the first and only Public Hearing and adopt the proposed Ordinance amending Article XIV of Chapter 10 of the Leon County Code of Laws, entitled "Fertilizer Use" (Attachment #1).
2. Conduct the first and only Public Hearing and do not adopt the proposed Ordinance amending Article XIV of Chapter 10 of the Leon County Code of Laws, entitled "Fertilizer Use".
3. Board direction.

Recommendation:

Option #1

Attachments:

1. Proposed Ordinance amending Article XIV of Chapter 10 of the Leon County Code of Laws entitled "Fertilizer Use"
2. Notice of public hearing

ORDINANCE NO. 21- _____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS
OF LEON COUNTY, FLORIDA, AMENDING CHAPTER 10 OF THE
CODE OF LAWS OF LEON COUNTY, FLORIDA, BY AMENDING
ARTICLE XIV, FERTILIZER USE; PROVIDING DEFINITIONS;
PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING
FOR SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

WHEREAS, at its May 2009, workshop, the Board of County Commissioners of
Leon County (Board) directed staff to draft a Fertilizer Ordinance to implement Policy
4.2.5:5 of the Conservation Element of the Comprehensive Plan, which calls for the County
to “restrict fertilizer content and application rates within the Primary Springs Protection
Zone (PSPZ)” for Wakulla Springs; and

WHEREAS, at its October 13, 2009 Public Hearing, the Board adopted a Fertilizer
Ordinance consistent with the State of Florida’s Model Ordinance at that time; and

WHEREAS, since adoption of the County’s current Ordinance, the State Model
Ordinance has been updated and County staff have reviewed other jurisdictions for
applicable regulations beyond the State Model Ordinance that would benefit Leon County;
and

WHEREAS, as a result of impairment to Leon County’s surface waters caused by
excessive nutrients under the Florida Impaired Waters Rule, or, as a result of increasing
levels of nitrogen and phosphorus in the surface and/or ground water within the aquifers or
springs within the boundaries of the unincorporated areas of the County, the Board has
determined that the improper use of fertilizers on lands within the unincorporated areas of
the county contributes to adverse effects on surface and/or groundwater; and

WHEREAS, accordingly, the Board finds that additional measures than are
otherwise required by the most recent edition of the “*Florida Friendly Best Management*

1 *Practices for Protection of Water Resources*” by the Green Industries, 2010 may be
2 required by this ordinance; and

3 WHEREAS, The Board finds that a violation of this ordinance is determined to be
4 irreparable and irreversible.

5 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**
6 **COMMISSIONERS OF LEON COUNTY, FLORIDA:**

7
8 **SECTION 1: Amending Article XIV to the Code of Laws of Leon County, Florida,**
9 **as follows:**

10
11 **ARTICLE XIV. FERTILIZER USE**

12 **Sec. 10-14.101. Purpose and Intent.**

13 This Article regulates the proper use of fertilizers by any fertilizer applicator;
14 requires proper training of commercial and institutional fertilizer applicators; establishes
15 training and licensing requirements; establishes a prohibited and restricted application
16 period; specifies allowable fertilizer application rates and methods, fertilizer-free zones,
17 low maintenance zones, and exemptions. The Article requires the use of Best Management
18 Practices that provide specific management guidelines to minimize negative secondary and
19 cumulative environmental effects associated with the misuse of fertilizers. These
20 secondary and cumulative effects have been observed in and on the County’s natural and
21 constructed stormwater and drainage conveyances, rivers, creeks, canals, springs, lakes,
22 ponds, and other water bodies. Collectively, these water bodies are an asset critical to the
23 environmental, recreational, cultural and economic well-being of the County’s residents
24 and the health of the public. Overgrowth of algae and vegetation hinder the effectiveness
25 of flood attenuation provided by natural and constructed stormwater and drainage

conveyances. Regulation of nutrients, including both phosphorous and nitrogen contained in fertilizer, will help improve and maintain water and habitat quality.

Sec. 10-14.102. Definitions. The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Article, except where the context clearly indicates a different meaning.

Administrator means the County Administrator, or designee.

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 unincorporated areas of the county.

Best management practices under this Article 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.

County means the unincorporated areas of the county.

County approved best management practices training program means a training program approved by the County Administrator or designee that includes at a minimum, a) the most current version of the “Florida-Friendly ~~Green Industries~~ Best Management Practices for Protection of Water Resources by the Green Industries, in Florida, June 2008,” as revised and, b) all of the provisions and requirements of this Article; or c) an alternative training program under Section 10-14.111 of this Article.

1 *Code enforcement officer, official, or inspector* means any authorized agent or
2 employee of the County whose duty it is to ensure code compliance.

3 *Commercial fertilizer applicator* means any person who applies fertilizer on turf
4 and/or landscape plants in the County in exchange for money, goods, services or other
5 valuable consideration.

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

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

11 *Guaranteed Analysis* means the percentage of plant nutrients or measures of
12 *neutralizing capability claimed to be present in a fertilizer.*

13 *Institutional fertilizer applicator* means any person, other than a non-commercial,
14 or commercial applicator (unless such definitions also apply under the circumstances), that
15 applies fertilizer for the purpose of maintaining turf and/or landscape plants. Institutional
16 fertilizer applicators shall include, but shall not be limited to, owners and managers of
17 public lands, schools, parks, athletic fields, religious institutions, utilities, industrial or
18 business sites and any residential properties maintained in condominium and/or common
19 ownership.

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

22 *Lawn* has the same definition as *turf*.

1 *Low maintenance zone* means an area a minimum of ~~fifteen~~ six (156) feet wide
2 adjacent to water courses which is planted and managed in order to eliminate the need for
3 fertilization and minimize the need for watering, mowing, etc.

4 *Non-commercial fertilizer applicator* means any person other than a commercial
5 fertilizer applicator or institutional fertilizer applicator who applies fertilizer on turf and/or
6 landscape plants, such as an individual owner of a single-family residential unit.

7 *Pasture* means land used for livestock grazing that is managed to provide feed
8 value.

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

12 *Prohibited application period* means the time period during which a flood watch or
13 warning, or a tropical storm watch or warning, or a hurricane watch or warning, or a 3-day
14 cone of uncertainty is in effect for any portion of Leon County, issued by the National
15 Weather Service, or if ~~heavy rain is expected~~ rain greater than or equal to one (1) inch in a
16 twenty-four-hour period is forecasted.

17 *Readily available nitrogen* means the water soluble fraction of formulated fertilizer
18 determined by the sum of the percentage of Nitrate and Ammoniacal Nitrogen plus Other
19 Water Soluble Nitrogen and/or Urea Nitrogen in the guaranteed analysis section of the
20 label.

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

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

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

7
8 **Sec. 10-14.103. Applicability.**

9 This Article shall be applicable to and shall regulate any and all applicators of
10 fertilizer and areas of application of fertilizer within the unincorporated areas of the county,
11 unless such applicator is specifically exempted by the terms of this Article. This Article
12 shall be applicable to and shall regulate any and all application of fertilizer within the
13 unincorporated areas of the county unless otherwise provided in Article IV of Chapter 10
14 of the Leon County Land Development Code (LDC). In case of a conflict between the
15 requirements in Article IV of Chapter 10, LDC, and this Article, the provisions in Article
16 IV of Chapter 10, LDC, shall prevail. This Article shall be prospective only and shall not
17 impair any existing contracts.

18
19 **Sec. 10-14.104. Timing of fertilizer application.**

20 Fertilizer should only be applied if the vegetation needs it. These regulations are
21 not intended to promote fertilization on a regular basis, but covers maximum limits and
22 recommended fertilization rates for turf grass maintenance.

23 No applicator shall apply fertilizers containing nitrogen and/or phosphorus to turf
24 and/or landscape plants during ~~the prohibited application period.~~ a flood watch or warning.

1 or a tropical storm watch or warning, or a hurricane watch or warning, or a 3-day cone of
2 uncertainty is in effect for any portion of Leon County, issued by the National Weather
3 Service, or if heavy rain is expected if rain greater than or equal to one (1) inch in a twenty-
4 four-hour period is forecasted.

5
6 **Sec. 10-14.105. Fertilizer content and application rates; irrigation with reclaimed**
7 **wastewater.**

8 (a) Fertilizers applied to turf and/or landscape plants within the unincorporated
9 areas of the county shall be formulated and applied in accordance with the most current
10 requirements and directions provided by Rule 5E-1.003(2), Florida Administrative Code,
11 *Labeling Requirements For Urban Turf*. ~~Fertilizer content in reclaimed wastewater used~~
12 ~~for irrigation shall be applied in accordance with Section 10-14.105(d).~~

13 (b) Except as provided in Section 10-14.105(a), fertilizers shall be applied to turf
14 and/or landscape plants at the lowest rate necessary. Nitrogen shall not be applied at an
15 application rate greater than ~~0.7~~ 0.5 lbs of readily available nitrogen per 1000 ft² at any one
16 time based on the soluble fraction of formulated fertilizer, with no more than 1 lb total N
17 per 1000 ft² to be applied at any one time and not to exceed the annual nitrogen limits
18 ~~recommendations~~ in the Fertilization Guidelines for Established Turfgrass Lawns set forth
19 below for convenience:

20 **Fertilization Guidelines for Established Turfgrass Lawns within the unincorporated**
21 **areas of the county:**

1

2

3

4

5 Species	11	<u>UF/IFAS</u>		17
		<u>Annual Nitrogen limits</u>	<u>recommendations</u>	
		<u>recommendations*</u>		
		(lbs N / 1000 ft ² / year)		(lbs N / 1000 ft ² / year)
6 Bahia grass	12	2-3 <u>2</u>	18	<u>1-3</u>
7 Bermuda grass	13	3-5 <u>3</u>	19	<u>3-5</u>
8 Centipede grass	14	1-2 <u>0.4</u>	20	<u>0.4-2</u>
9 St. Augustine grass	15	2-4 <u>2</u>	21	<u>2-4</u>
10 Zoysia grass	16	2-3 <u>2</u>	22	<u>2-3</u>

23 ~~*These are recommendations only if the lawn needs it. It is further recommended that a~~
 24 ~~50% slow release or greater fertilizer be applied during the summer months from June 1 to~~
 25 ~~September 30 only if needed.~~

26

27 (c) Not more than ~~2~~ 1 lbs of total nitrogen per 1,000 square feet per application
 28 can be applied in the spring and summer.

29 (d) Not more than 1 lb of total nitrogen per 1,000 square feet per application may
 30 be applied during the fall or winter. No application of Nitrogen in the winter months is
 31 allowed.

32 ~~(e) Nitrogen fertilizer may not be applied to turf or landscape plants except as~~
 33 ~~provided above unless a tissue deficiency has been verified by an approved test.~~

34 ~~(f) The use of water from a reclaimed wastewater system must be in accordance~~
 35 ~~with an approved reclaimed wastewater reuse nutrient management plan. The plan shall~~
 36 ~~contain, at a minimum, the frequency and volume of application, restricted periods of~~
 37 ~~application (if any), application rates and required best management practices. If fertilizer~~
 38 ~~other than that contained in the reclaimed water is to be applied, the nutrient management~~

plan shall show that the cumulative nutrient loading does not exceed those established in this Article.

(g) No fertilizer containing phosphorous shall be applied to turf and/or landscape plants in the county, except where a phosphorous deficiency has been demonstrated in the soil underlying the turf and/or landscape plants by a soil analysis test performed by a State of Florida certified laboratory. Phosphorus fertilizer shall not be applied to turf or landscape plants unless a soil deficiency has been verified by an approved test. Where a deficiency is verified, the application of fertilizer containing phosphorus shall adhere to the rates and directions for the appropriate Region of Florida, as adopted by Florida Administrative Code Rule

(h) Nitrogen fertilizer 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, or in accordance with an adopted stormwater pollution prevention plan for that site.

(i) Granular fertilizers containing nitrogen applied to turf and/or landscape plants within the county shall contain no less than fifty (50) per cent slow release nitrogen per guaranteed analysis label.

(j) Liquid fertilizers containing nitrogen applied to turf and/or landscape plants within the county shall not be applied at a rate that exceeds 0.5 pounds per one thousand (1,000) square feet per application.

Sec. 10-14.106. 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 to the greatest extent practicable. 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. In no case shall fertilizer be washed, swept, or blown off impervious surfaces into stormwater drains, ditches, conveyances, or water bodies.

Sec. 10-14.107. Fertilizer free zones.

Fertilizer shall not be applied within ~~ten (10)~~ fifteen (15) feet of the top of the bank of any pond, stream, water course, lake, drainage ditch, or wetland as defined by the Florida Department of Environmental Protection (Chapter 62-340, Florida Administrative Code) or from the top of a retaining wall associated with any of these features. If more stringent County Code regulations apply, this provision does not relieve the requirement to adhere to the more stringent regulations. See Article IV of Chapter 10 of the Leon County Land Development Code. ~~Newly planted turf and/or landscape plants may be fertilized in this zone only for the first sixty (60) day establishment period.~~

Sec. 10-14.108. Low maintenance zones.

A voluntary fifteen ~~six (156)~~ foot low maintenance zone is strongly recommended, but not mandated, from the top of the bank of any pond, stream, water course, lake, wetland or from the top of a retaining wall associated with any of these features. A properly permitted 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

1 should be deposited or left remaining in this zone or deposited in the water. Care should
2 be taken to prevent the over-spray of aquatic weed products in this zone. There are If more
3 stringent County protective buffer regulations that apply to these protected features. ~~this~~
4 ~~provision does not relieve the requirement to adhere to the more stringent regulations.~~ See
5 Article IV of Chapter 10 of the Leon County Land Development Code.

6
7 **Sec. 10-14.109. Mode of application.**

8 Spreader deflector shields are required when fertilizing via rotary spreaders.
9 Deflectors must be positioned such that fertilizer granules are deflected away from all
10 impervious surfaces, fertilizer-free zones and water bodies, including wetlands.

11
12 **Sec. 10-14.110. Exemptions.**

13 The provisions set forth above in this Article shall not apply to:

14 (a) Bona fide farm operations as defined in the Florida Right to Farm Act, Section
15 823.14, F.S., provided that fertilizers are applied in accordance with the appropriate Best
16 Management Practices Manual adopted by the Florida Department of Agriculture and
17 Consumer Services, Office of Agricultural Water Policy for the crop in question.

18 (b) Other properties not subject to or covered under the Florida Right to Farm Act
19 that have pastures primarily used for grazing livestock provided that fertilizers are applied
20 in accordance with the appropriate Best Management Practices Manual adopted by the
21 Florida Department of Agriculture and Consumer Services, Office of Agricultural Water
22 Policy for the crop in question.

23 (c) Tree trunk injection fertilization treatment that are performed by a certified
24 arborist.

1 (d) Vegetable gardens, owned by individual property owners or a community,
2 provided that fertilizer application rates do not exceed UF/IFAS recommendations per
3 SP103 Florida Vegetable Gardening Guide, December 2008, as revised.

4
5 **Sec. 10-14.111. Training and certification; presence on site of trained applicator**
6 **during application of fertilizer.**

7
8 (a) Within 180 days of the effective date of this Article and every four ~~three~~ years
9 thereafter, all applicators of fertilizer, including private, commercial and government
10 employees within the unincorporated areas of the county, other than private homeowners
11 on their own property, shall abide by and successfully complete a County-approved best
12 management practices training program as defined in this Article. Upon successful
13 completion and compliance with the requirements in this Article, a certificate of
14 completion and a certification card valid for a period of four ~~three~~ years will be provided
15 by the entity providing the training. Persons working as employees and under the direct
16 and physical supervision of commercial applicators that hold a current certificate of
17 completion and certification card shall be exempt from the requirement to complete a
18 County-approved best management practices training program.

19 (b) All individuals applying fertilizer ~~At least one person holding~~ shall hold a
20 current County-approved best management practices training Certificate ~~shall be present~~
21 ~~at all times~~ on any job site while work applying fertilizer is in progress.

22 (c) Homeowners, and any other applicators not otherwise required to be certified
23 are encouraged to follow the requirements of this Article as well as the recommendations
24 of the University of Florida IFAS *Florida Yards and Neighborhoods* program when
25 applying fertilizers.

(d) Persons holding a Certificate of Training issued in conjunction with the Florida Green Industries Best Management Practices Program for protection of water resources in Florida; or, other State approved certificate of training or, a certification issued by another local government, that includes at a minimum ~~“Florida Green Industries~~ “Florida Friendly Best Management Practices for Protection of Water Resources” by the Green Industries, ~~in Florida, June 20102,~~” or newer as the basis for instruction, may obtain certification by the County after contacting the County’s Environmental Services ~~Compliance~~ Division or designee and presenting proof of the currently active status of training as described in paragraph (a) above, and attesting that he/she has received and read a copy of this Article. The Environmental Services ~~Compliance~~ Division may adopt policies related to this exception, and shall maintain a list of approved alternative training programs.

Sec. 10-14.112. Enforcement

It is the intent hereof that the administrative, civil, and criminal penalties imposed through execution of this Article be of such amount as to ensure immediate and continued compliance with this Article. This article shall be enforced by the Leon County Code Enforcement Board, as set out in Chapter 6 of the Leon County Code of Laws, if the penalties in this subsection are not collected within fourteen (14) days. A violation of this ordinance is determined to be irreparable and irreversible, such that no action to cure the violation is possible and a penalty in the form of a fine is warranted. Violation of any provision of this Article shall be subject to the following penalties:

(a) First violation. Written notification and education.

1 (b) Second violation. Fifty dollars (\$50) for residential applicators applying
2 fertilizer to their own property and one hundred dollars (\$100) for commercial or
3 institutional fertilizer applicators.

4 (c) Third violation(s). One hundred dollars (\$100) for residential applicators
5 applying fertilizer to their own property and two hundred dollars (\$200) for
6 commercial or institutional fertilizer applicators.

7 (d) Fourth and subsequent violation(s). A minimum of one hundred dollars (\$100)
8 for residential applicators applying fertilizer to their own property and a minimum
9 of two hundred dollars (\$200) for commercial or institutional fertilizer applicators,
10 not to exceed one thousand dollars (\$1,000).

11 (e) Any applicator that violates the provisions of this Article may be responsible
12 for the County's costs of prosecution of any violation, including any costs to remedy
13 or clean up any environmental condition caused by an act, which constitutes a
14 violation of this Article:

15

16 **Sec. 10-14.113. Variances**

17 Any applicator of fertilizer regulated by the provisions of this Article may apply to
18 the Board of Adjustment and Appeals for a variance from the requirements of this Article.

19 (1) Standards and procedures. The applicant must identify the specific provisions
20 of the fertilizer regulations for which a variance is requested, and shall address the
21 following:

22 (a) Whether, as a result of soil or tissue content at the point of the proposed
23 application or for other geographical, environmental or geological reasons or other

1 circumstances, such person should not be required to adhere to the strict provisions of this
2 Article; and

3 (b) Whether such person is able and willing to use a less strict application method
4 or alternative materials or methods; and

5 (c) A plan for fertilizer application, including where the fertilizer will be applied,
6 the frequency of application, contents of fertilizer to be applied, and period of time for
7 which the variance is requested.

8 (2) Following receipt of the variance application, the Board of Adjustment and
9 Appeals shall, at a timely regularly scheduled meeting:

- 10 a. Approve the variance request or any portion thereof;
- 11 b. Approve the variance request or any portion thereof subject to conditions;
- 12 c. Disapprove the variance request, specifying the reasons therefore in writing;
- 13 or
- 14 d. Continue consideration of the variance request to a time certain.

15 (3) Criteria for granting variance. The Board of Adjustment and Appeals may
16 grant the variance request if it determines that:

- 17 a. The applicant satisfactorily demonstrates that all practical alternatives have
18 been evaluated, and the soil or tissue content at the point of the proposed application is
19 such that the provisions of the fertilizer regulations create a hardship for the applicant; or
- 20 b. The applicant satisfactorily demonstrates that all practical alternatives have
21 been evaluated, and due to unique geographical, environmental or geological reasons or
22 other unique circumstances, the applicant should not be required to adhere to the strict
23 provisions of the fertilizer regulations; and

1 c. The applicant satisfactorily demonstrates that its plan for fertilizer application
2 is consistent with the purpose and intent of the fertilizer regulations to the greatest extent
3 feasible and that adverse impacts, if any, are appropriately mitigated.

4 (4) *Time periods for variances.* Any Board of Adjustment and Appeals order
5 approving a variance request to the fertilizer regulations shall establish an expiration date
6 for the variance.

7
8
9 **SECTION 2. APPLICABILITY.**

10 For the purposes of jurisdictional applicability, this ordinance shall apply in the
11 unincorporated areas of Leon County. This ordinance shall apply to all applications for
12 development, including building permit applications and subdivision proposals, submitted
13 on or after the effective date of this ordinance.
14

15
16 **SECTION 3. INCLUSION INTO THE CODE OF ORDINANCES.**

17 It is the intent of the Board of County Commissioners that the provisions of this ordinance
18 shall become and be made a part of the Leon County Code of Ordinances, and that the
19 sections of this ordinance may be renumbered or re-lettered and the word “ordinance” may
20 be changed to “section,” “article,” “regulation,” or such other appropriate word or phrase
21 in order to accomplish such intentions.
22

23
24 **SECTION 4. SEVERABILITY.**

25 If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason,
26 declared by the courts to be unconstitutional or invalid, such decision shall not affect the
27 validity of the ordinance as a whole, or any part thereof, other than the part so declared.

SECTION 5. EFFECTIVE DATE.

This ordinance shall have effect upon becoming law.

[Signature Page to Follow.]

DONE, ADOPTED AND PASSED by the Board of County Commissioners of
Leon County, Florida, this _____ day of _____, 2021.

LEON COUNTY, FLORIDA

By: _____
Rick Minor, Chairman
Board of County Commissioners

ATTESTED BY:
Gwendolyn Marshall, Clerk of Court
& Comptroller, Leon County, Florida

By: _____

APPROVED AS TO FORM:
Chasity H. O'Steen, County Attorney
Leon County Attorney's Office

By: _____

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Board of County Commissioners of Leon County, Florida will conduct a public hearing on Tuesday, May 11, 2021, at 6:00 p.m., or as soon thereafter as such matter may be heard, at the County Commission Chambers, 5th Floor, Leon County Courthouse, 301 South Monroe Street, Tallahassee, Florida, to consider adoption of an ordinance entitled to wit:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, AMENDING CHAPTER 10 OF THE CODE OF LAWS OF LEON COUNTY, FLORIDA, BY AMENDING ARTICLE XIV, FERTILIZER USE; PROVIDING DEFINITIONS; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

Leon County will be broadcasting the public hearing on Comcast channel 16, Prism channels 16 and 1016-HD, the Leon County Florida channel on Roku, and the County's Facebook page (<https://www.facebook.com/LeonCountyFL/>), YouTube channel (<https://www.youtube.com/user/LeonCountyFL>), and web site (www.LeonCountyFL.gov).

All interested parties are invited to present their comments at the public hearing at the time and place set out above. Interested parties are also invited to submit written public comments until 8:00 p.m. on Monday, May 10, 2021, by visiting <https://leoncountyfl.gov/PublicComments>. All submitted written comments will be distributed to the Board prior to the public hearing and made a part of the record. Written comments received by the public will be posted on the County's website (www.LeonCountyFL.gov) in advance of the hearing. Persons needing assistance with submitting comments may contact County Administration via telephone at (850) 606-5300, or via email at LCG_PublicComments@leoncountyfl.gov.

Written public comments received after the 8:00 p.m., Monday, May 10, 2021, deadline will be made available to the Board and entered into the record during the hearing, although the County cannot guarantee that Commissioners will have adequate time to review such comments prior to the hearing or that the comments will be posted on the County website prior to the hearing.

Interested parties may also provide virtual real-time public comments during the public hearing. Interested parties wishing to provide virtual real-time public comments must complete and submit the registration form provided at <https://www2.leoncountyfl.gov/coadmin/agenda/> by 8:00 p.m. on Monday, May 10, 2021. Following submittal of the registration form, further instructions for participating in the meeting will be provided. Persons needing assistance with registering or providing real-time comments may contact County Administration via telephone at (850) 606-5300, or via email at LCG_PublicComments@leoncountyfl.gov. Please note that Board of County Commissioners Policy 01-05, Article IX., Section E., entitled "Addressing the Commission", and Article IX., Section F., entitled "Decorum", shall remain in full force and effect.

Anyone wishing to appeal the action of the Board with regard to this matter will need a record of the proceedings and should ensure that a verbatim record is made. Such record should include the testimony and evidence upon which the appeal is to be based, pursuant to Section 286.0105, Florida Statutes.

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons needing a special accommodation to participate in this proceeding should contact Mathieu Cavell or Facilities Management, Leon County Courthouse, 301 South Monroe Street, Tallahassee, Florida 32301, by written request at least 48 hours prior to the proceeding. Telephone: 850-606-5300 or 850-606-5000; 1-800-955-8771 (TTY), 1-800-955-8770 (Voice), or 711 via Florida Relay Service.

Copies of the Ordinance may be inspected on the County's web site (www.LeonCountyFL.gov). To receive copies of the Ordinance by other means, such as email, mail, or facsimile transmittal, contact County Administration at 850-606-5300 or the Department of Development Support and Environmental Management at 850-606-1300.