



Kevin Madok, CPA

Clerk of the Circuit Court & Comptroller – Monroe County, Florida

June 28, 2021

Department of State
Administrative Code & Register
500 S. Bronough Street
Tallahassee, FL. 32399-0250

To Whom It May Concern,

Attached is an electronic copy of **Ordinance No. 018-2021** of the Board of County Commissioners of Monroe County, Florida, Amending Article II, Chapter 12, of the Monroe County Code of Ordinances, to Adopt the "Monroe County Ordinance for **Florida-Friendly Fertilizer Use** on Urban Landscapes" incorporating regulation of the use or application of fertilizers.

This Ordinance was adopted by the Monroe County Board of County Commissioners at a regular meeting, held in formal session, on June 16, 2021. Should you have any questions, please feel free to contact me at (305) 292-3550.

Respectfully Submitted,

Kevin Madok, CPA,
Clerk of the Circuit Court & Comptroller &
ex-officio to the Monroe County
Board of County Commissioners

by: Sally M. Abrams, D.C.

cc:

County Administrator
County Attorney
BOCC
File

KEY WEST
500 Whitehead Street
Key West, Florida 33040
305-294-4641

MARATHON
3117 Overseas Highway
Marathon, Florida 33050
305-289-6027

PLANTATION KEY
88820 Overseas Highway
Plantation Key, Florida 33070
305-852-7145

PK/ROTH BUILDING
50 High Point Road
Plantation Key, Florida 33070
305-852-7145



ORDINANCE NO. 018 - 2021

AN ORDINANCE OF THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING CHAPTER 12 (“ENVIRONMENT AND NATURAL RESOURCE PROTECTION”) OF THE MONROE COUNTY CODE OF ORDINANCES BY AMENDING ARTICLE II. (“RESERVED”) TO ADOPT AND INCORPORATE REGULATION OF THE “USE OR APPLICATION OF FERTILIZERS”, RELATING TO FLORIDA FRIENDLY FERTILIZER USE OR APPLICATION WITHIN UNINCORPORATED MONROE COUNTY; PROVIDING FOR DEFINITIONS, USE, TIMING OF FERTILIZER USE, CONTENT-BASED FERTILIZER APPLICATION REQUIREMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS INCONSISTENT HERewith; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; PROVIDING FOR TRANSMITTAL TO THE SECRETARY OF STATE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners (“Board” or “BOCC”) is the legislative body of Monroe County, Florida; and

WHEREAS, Monroe County has been designated an Area of Critical State Concern (“ACSC”) pursuant to Florida Statute Section 380.0552;¹ and

WHEREAS, the waters surrounding the Florida Keys of Monroe County, Florida, are situated within the boundaries of the Florida Keys National Marine Sanctuary and have, since July 26, 2001, been designated a federal No Discharge Zone (“NDZ”) by the United States Environmental Protection Agency pursuant to Title 40, Chapter I, Subchapter D, Part 140, Section 140.4(b)(1)(ii), as may be amended from time to time; and

WHEREAS, Monroe County Ordinance No. 14-2010, at Section 12-141 thereof, codified at Section 12-141 of Chapter 12 of the Monroe County Code of Ordinances (entitled “Environmental and Natural Resource Protection”), defines “County waters” as “[A]ny Monroe County waters, whether contained within boundaries naturally artificially, or diffused, including, but not limited to the Gulf, bays, canals, estuaries, and wetlands”; and

WHEREAS, County waters include those waters which are part of the State as being specified within Monroe County pursuant to Section 7.44, Florida Statutes, and Article II, Section 1, Constitution of the State of Florida (Rev. 1968), waters out to three marine leagues, or waters in the immediate vicinity of county reefs”; *see also* Section 7.44, Florida Statutes (“So much of the State of Florida as is situated south of the County of Collier and west or south of the County of Miami-Dade, constitutes the County of Monroe.”); and

WHEREAS, Section 403.9337(2), Florida Statutes,² enacted pursuant to Chapter 2009-199, Laws of Florida,³ provides that “[e]ach county and municipal government located within the watershed of a water body or

¹ Also known as the “Florida Keys Area Protection Act.” Fla. Stat. § 380.0552(1).

² Enacted pursuant to Chapter 2009-199, Laws of Florida.

³ Approved by the Governor of Florida on June 18th, 2009, and legally effective as of July 1st, 2009.

water segment that is listed as impaired by nutrients pursuant to s. 403.067, shall, at a minimum, adopt the Department's Model Ordinance for Florida-Friendly use on Urban Landscapes"; and

WHEREAS, Section 403.9337(2)(a)-(b), Florida Statutes, provides that "A local government may adopt additional or more stringent standards than the model ordinance if the following criteria are met: The local government has demonstrated, as part of a comprehensive program to address nonpoint sources of nutrient pollution which is science-based, and economically and technically feasible, that additional or more stringent standards than the model ordinance are necessary in order to adequately address urban fertilizer contributions to nonpoint source nutrient loading to a water body. The local government documents that it has considered all relevant scientific information, including input from the department, the institute, the Department of Agriculture and Consumer Services, and the University of Florida Institute of Food and Agricultural Sciences, if provided, on the need for additional or more stringent provisions to address fertilizer use as a contributor to water quality degradation. All documentation must become part of the public record before adoption of the additional or more stringent criteria"; and

WHEREAS, the quality of fresh and salt water bodies, wetlands, mangroves, seagrass(es), and other natural, native features of Monroe County, is critical to the environmental, economic, and recreational prosperity of Monroe County, and to the health, safety, and welfare of the residents of and visitors to Monroe County; and

WHEREAS, fertilizer contains nutrients like nitrogen and phosphorus, which are components of landscape fertilizers, and are known to be captured in runoff that is deposited in Monroe County nearshore waters and waterways; and

WHEREAS, the amount of fertilizer used or applied to a given landscape and the method of use or application have potential for creating adverse nutrient pollution; and

WHEREAS, Monroe County's natural and artificial stormwater and drainage conveyances regulate the flow of stormwater to prevent or mitigate flooding; and

WHEREAS, surface water runoff and base flow runoff flows from residential, commercial, and industrial developments, and other lands of Monroe County, enter(s) into natural and artificial stormwater and drainage conveyances and natural water bodies in Monroe County; and

WHEREAS, leaching and runoff of nutrients from improper or excessive fertilizer use or application contributes to nitrogen and phosphorus loading in Monroe County's stormwater and drainage conveyances and natural water bodies; and

WHEREAS, the detrimental effects of nutrient-laden runoff are magnified in a coastal or island community such as Monroe County, due to the proximity of stormwater and drainage conveyances to nearshore waters; and

WHEREAS, the Board finds and recognizes that excessive and improper use or application of fertilizers can contribute to water quality issues and can lead to water quality degradation; and

WHEREAS, Monroe County has demonstrated, as part of a comprehensive program to address nonpoint sources of nutrient pollution, that this ordinance is appropriate to address adverse fertilizer contributions to nonpoint source nutrient loading to local water bodies; and

WHEREAS, in the process of adoption of this ordinance, the Monroe County Board of County Commissioners has considered all relevant scientific information, including but not limited to:

- February 17th, 2021 Regular BOCC Meeting: “Discussion and direction on whether the County should adopt an ordinance regulating the use of fertilizers within the County”⁴
 - Presentation by Kelly Cox, Esq., of Miami Waterkeeper, a not-for-profit business organization;
 - Public comment by Emma Haydocy, on behalf of Florida Bay Forever Save Our Waters, Inc., a Florida not-for-profit corporation, in her capacity as a Director of Florida Bay Forever Save Our Waters, Inc.;
 - Public comment by Dorothy “Dottie” Moses, on behalf of the Island of Key Largo Federation of Homeowner Associations, Inc., a Florida not-for-profit corporation;

WHEREAS, the regulation of nutrients, including both phosphorus and nitrogen contained in fertilizer, is an important step in maintaining and improving water and habitat quality in Monroe County; and

WHEREAS, the Monroe County Board of County Commissioners finds that this Ordinance is necessary to advance the County’s valid public and environmental health, safety, and welfare police power interests;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA:

SECTION 1. - Recitals and Legislative Intent. The foregoing recitals and statements of legislative intent are true and correct and are hereby incorporated as if fully stated herein.

SECTION 2. - Title. This Ordinance shall be titled the “Monroe County Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes.”

SECTION 3. - Creation. That Chapter 12 of the Monroe County Code of Ordinances, entitled “Environment and Natural Resources Protection,” is hereby amended to create Article II., entitled “Use or Application of Fertilizers,” as follows:

ARTICLE II. - USE OR APPLICATION OF FERTILIZERS

Section 12-25. Jurisdiction; Administration. This Article shall exclusively apply in unincorporated Monroe County, Florida, only, and does not apply within the territorial jurisdiction of any municipality within the county.

Section 12-26. Purpose and Intent. This Article regulates the proper use of fertilizers by any applicator and requires proper training of commercial and institutional fertilizer applicators and landscape maintenance companies by establishing a restricted season for fertilizer application, fertilizer-free zones, low maintenance zones, exemptions, training, and certification requirements. The Article requires the use of best management practices which provide specific management guidelines to minimize negative secondary and cumulative environmental effects associated with the misuse of fertilizers and improper landscape maintenance practices. These secondary and cumulative effects have been observed in and on Monroe County’s natural and artificial stormwater and drainage conveyances, lakes, canals, estuaries, interior freshwater wetlands, and Monroe County writ large. Collectively, these water bodies are an asset critical to the environmental, recreational, cultural and economic well-being of residents of and visitors to Monroe County and the health of the public. Regulation of nutrients, including both phosphorus and nitrogen contained in fertilizer, shall help improve and maintain water and habitat quality throughout Monroe County.

⁴ Agenda item N.10 at the Board’s February 17th, 2021, regular meeting.

Section 12-27. Construction and Interpretation. This Article is necessary for the health, safety, and welfare of the residents of and visitors to the county. This Article shall be liberally construed to effect the public purpose(s) hereof. Interpretation of this Article shall be construed in favor of Monroe County, and such construction and interpretation shall be entitled to great weight in adversarial administrative proceedings, at trial, in bankruptcy, and on appeal. To the extent of any conflict between this Article and other Monroe County ordinances or regulations, and to the extent of any conflict within sections within this Article, the more restrictive is deemed to be controlling.

Section 12-28. Definitions. The phrases, terms, and words used in this Article shall be, except as specifically defined otherwise herein, the same as they have been defined in the Monroe County Code of Ordinances and in the Monroe County Land Development Code. The following terms shall have the following specific definitions as used herein, unless the context clearly indicates otherwise:

Application or Apply, or variants thereof. Shall mean the actual physical deposit of fertilizer to turf, specialized turf, or landscape plants.

Applicator. Shall mean any natural or legal person who applies fertilizer on turf, specialized turf, or landscape plants in Monroe County. The term includes but is not limited to persons, commercial fertilizer applicators and institutional applicators.

Best management practices or BMP. Shall mean turf and landscape practices, or a combination of practices, based upon peer-reviewed 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, and which minimize the negative environmental impacts of installation and maintenance of landscapes.

Best Management Practices Training Program. Shall mean a training program approved pursuant to Florida Statute Section 403.9338, or any more stringent requirements set forth in this Article, that includes the most current version of the Florida Department of Environmental Protection's "Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries, 2008".

Commercial fertilizer applicator. Shall mean any natural or legal person who applies fertilizer in Monroe County, on property not owned by the person applying the fertilizer, or by the employer of the applicator, in exchange for money, goods, services, or other valuable consideration.

Fertilizer. Shall mean any substance or mixture of substances that contains one or more recognized plant nutrients and promotes plant growth, or controls soil acidity or alkalinity, or provides other soil enrichment, or provides other corrective measures to the soil. The term includes granular, liquid, rapid-release and slow or controlled release fertilizer.

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

Fertilizer-Free Zone. Shall mean within twenty (20) feet from the seawall, riprap or bank or shoreline of any surface water of Monroe County and any storm drain, pond, stream, waterway, lake, canal, or wetland.

Florida-Friendly Landscaping. Shall mean quality, low-maintenance landscapes that conserve water, protect the environment, are adaptable to local conditions, and are drought tolerant. The principles of such landscaping include planting the right plant in the right place, efficient watering, responsible and appropriate fertilization, responsible and appropriate mulching, responsible and appropriate attraction of wildlife, responsible and appropriate management of yard pests, recycling yard waste, reduction of stormwater runoff, and waterfront

protection. Additional components include practices such as landscape planning and design, soil analysis, the appropriate use of solid waste compost and minimizing the use of irrigation, pesticides, and fertilizers.

Granular. Shall mean composed of small grains or particles.

Green infrastructure. Shall mean a management approach engineered-as-natural ecosystems such as green roofs, porous pavement, swales and rain gardens that largely rely on using soil and vegetation to infiltrate, evapotranspire, or responsibly and appropriately utilize stormwater runoff and reduce flows to drainage collection systems. This practice aims to preserve, restore, and create green space using soils, vegetation, and rainwater harvest techniques.

Guaranteed analysis. Shall mean the percentage of plant nutrients or measures of neutralizing capability claimed to be present in a fertilizer.

High-impact areas in parks. Shall mean turf grass areas that are heavily utilized by pedestrian traffic year-round.

Institutional applicator. Shall mean any natural or legal person, other than a non-commercial or commercial applicator, that applies fertilizer for the purpose of maintaining turf or landscape plants. Institutional applicators shall include, but shall not be limited to, owners, managers, employees, or agents of residential properties maintained in community associations such as a condominium association, a homeowners' association, or a property owners' association, residential properties maintained in common ownership, industrial, commercial, or business sites, educational, religious institutions, and the like.

Landscape plant. Shall mean any native or exotic tree, shrub, or groundcover (excluding turf).

Landscape maintenance. Shall mean activities carried out to manage and maintain landscape plants including but not limited to mowing, edging, and trimming.

Low impact development (LID). Shall refer to systems and practices that use or mimic natural processes that result in the infiltration, evapotranspiration, or use of stormwater in order to protect water quality and associated aquatic habitat. LID is an approach to land development or redevelopment that works with nature to manage stormwater as close to its source as possible.

Low maintenance buffer or Low maintenance zone. Shall mean an area a minimum of ten (10) feet wide adjacent to water courses which is planted to capture and treat stormwater and is designed to capture and treat stormwater and is designed to not require fertilization, watering, mowing, etc.

Organic fertilizers. Shall mean fertilizers that are derived from living materials, excluding biosolids. Examples of organic fertilizers include but are not limited to animal manures, composted materials, and plant residues. Organic fertilizers are usually considered to be "slow release" fertilizers because many of the nutrients must be broken down by soil microbes before they become available for plant uptake.

Person. Shall mean any natural or legal person, including but not limited to any human being, business, corporation, limited liability company, partnership, sole proprietorship, association, club, organization, or any group of people acting as an organized entity.

Rapid (quick) release or water-soluble nitrogen. Shall mean any product containing, including but not limited to:

- (1) Ammonium nitrate;
- (2) Ammonium sulfate;

- (3) Calcium nitrate;
(4) Diammonium phosphate;
(5) Monoammonium phosphate;
(6) Potassium nitrate;
(7) Sodium nitrate;
(8) Urea (not in the form of slow release nitrogen); or
(9) Others as may be designated by the Association of American Plant Food Control Officials.

Restricted Season. Shall mean May 15 through October 31, as well as during the time period during which a flood watch or flood warning, or a tropical storm watch or tropical storm warning, or a hurricane watch or hurricane warning, regardless of the time of year, is in effect for any portion of unincorporated Monroe County, or in any area of unincorporated Monroe County if heavy rain is likely or ongoing.

Saturated soil. Shall mean 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 if the pressure of a person standing on or an object lying on the soil causes the release of free water.

Site supervisor. Shall mean the direct supervisor of landscape maintenance personnel.

Slow release, controlled release, timed release, or water insoluble nitrogen. Shall mean nitrogen in a form which delays its availability for plant uptake and use after application, or which extends its availability to the plant longer than a reference rapid or quick release product. Forms of slow release, controlled release, slowly available, or water insoluble nitrogen include but are not limited to:

- (1) Isobutylidene diurea (“IBDU”);
(2) Resin, polymer, or sulphur coated urea;
(3) Biosolids or residuals from domestic wastewater treatment;
(4) Ureaformaldehyde;
(5) Composted animal manure;
(6) Others as may be designated by the Association of American Plant Food Control Officials.

Slow or controlled release fertilizer. Shall mean 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”.

Specialized turf. Shall mean areas of grass used for athletic fields, golf course practice, recreational or play areas, athletic fields, and other similar activities.

Specialized turf manager. Shall mean a person responsible for fertilizing or directing the fertilization of specialized turf.

Surface water. Shall mean fresh, brackish, saline, or tidal waters, contained in bounds created naturally or artificially, including but not limited to bays, creeks, ditches, estuaries, impoundments, lagoons, lakes, ponds, rivers, springs, streams, wetlands, water bodies, and including but not limited to canals, whether located in or on the Atlantic Ocean side of Monroe County or in or on the Florida Bay or Gulf of Mexico side of Monroe County.

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

Urban landscape. Shall mean pervious areas on residential, commercial, industrial, institutional, rights-of-way, or on other lands that are planted with turf or horticultural plants.

303 **Section 12-29. Timing of Fertilizer Use.**

- 304
- 305 (a) No applicator shall apply fertilizers containing nitrogen or phosphorus, or both, to turf or landscape plants
- 306 during a restricted season.
- 307
- 308 (b) Fertilizer shall only be applied to actively growing turf and plants and not to saturated soil.
- 309
- 310 (c) Fertilizer containing nitrogen or phosphorus, or both, shall not be applied before seeding or sodding a site
- 311 and shall not be applied for the first 30 days after seeding or sodding except when hydroseeding for
- 312 temporary or permanent erosion control in an appropriate emergency situation (e.g., wildfire, etc.) or in
- 313 accordance with the stormwater pollution plan for that site.
- 314

315 **Section 12-30. Fertilizer-Free Zones.**

- 316
- 317 (a) Except as provided in subsection (b) immediately below, fertilizer shall not be applied within twenty (20)
- 318 feet of any breakwater, bulkhead, bulwark, canal, dock, pier, revetment, rip-rap, wharf, or within twenty
- 319 (20) feet of any seawall, or within twenty (20) feet of any altered or unaltered shoreline, or within twenty
- 320 (20) feet of any surface water. In the event of a conflict, the greater extent of distance shall control. By
- 321 way of example, therefore, if an area is not within twenty (20) feet of a surface water, but is within twenty
- 322 (20) feet of a breakwater, bulkhead, bulwark, canal, dock, pier, revetment, rip-rap, wharf, seawall, etc.,
- 323 the fact of such area's falling within twenty (20) feet of such breakwater, bulkhead, bulwark, canal, dock,
- 324 pier, revetment, rip-rap, wharf, seawall, etc., shall prohibit fertilizer from being applied in such area.
- 325
- 326 (b) Spreader deflector shields are required when fertilizing adjacent to all impervious surfaces, any fertilizer-
- 327 free zones, low maintenance buffer or low maintenance zones, surface waters, and water-bodies,
- 328 including but not limited to wetlands.
- 329
- 330 (c) Newly planted turf and landscape plants may be fertilized within a fertilizer-free zone only for a sixty
- 331 (60) day period beginning thirty (30) days after planting, if needed, to allow the plants to become well
- 332 established and caution is used to prevent direct deposition of nutrients into the water.
- 333

334 **Section 12-31. Fertilizer Content and Use Rates.**

- 335
- 336 (a) Fertilizers applied to turf or landscape plants within the unincorporated county shall be applied to such
- 337 turf or landscape plants at the lowest recommended rate according to the "Florida Green Industries Best
- 338 Management Practices for Protection of Water Resources in Florida, December 2008", with no more than
- 339 two (2) pounds of nitrogen per one-thousand (1,000) square feet applied in any calendar year.
- 340
- 341 (b) Liquid fertilizers containing nitrogen shall not be applied to turf or landscape plants within the
- 342 unincorporated county.
- 343
- 344 (c) Granular fertilizers containing nitrogen applied to turf or landscape plants within the unincorporated
- 345 county shall contain at least 50% slow release, controlled release, timed release, slowly available, or
- 346 water insoluble nitrogen per guaranteed analysis label. Caution should be used to prevent direct
- 347 deposition of nutrients in the water.
- 348
- 349 (d) Fertilizers containing nitrogen or phosphorus, or both, applied to turf or landscape plants within the
- 350 unincorporated county, shall contain not less than sixty-five percent (65%) slow release, controlled
- 351 release, timed release, slowly available, or water insoluble nitrogen per guaranteed analysis label. Caution
- 352 should be used to prevent direct deposition of nutrients in the water.
- 353

- (e) Except as provided in paragraphs (a)-(d) of this section, fertilizers applied to turf and landscape plants within the county shall be formulated and applied in accordance with requirements and directions provided by Florida Administrative Code Rule 5E-1.003(4) ("Labeling Requirements for Urban Turf Fertilizers"). Stated otherwise, Applicators shall not apply fertilizer in violation of said fertilizer label directions.
- (f) Fertilizer containing nitrogen or phosphorus, or both, shall not be applied before seeding or sodding a site and shall not be applied for the first thirty (30) days after seeding or sodding, except when hydroseeding for temporary or permanent erosion control in an emergency situation (e.g., saltwater floods, etc.), or in accordance with the Stormwater Pollution Plan for that site.
- (g) No more than 0.50 lb. of readily available nitrogen per 1,000 square feet shall be applied to any turf or landscape area in one application or use. This includes no more than one (1) pound total nitrogen per one thousand (1,000) square feet applied at any one time of granular fertilizer and no more than one half pound of nitrogen per 1,000 square foot area per application of liquid fertilizer.
- (h) 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 has been professionally verified by an approved test, phosphorus fertilizer shall not be applied at application rates that exceed 0.25 lbs. of phosphorus per 1,000 square feet per application and not to exceed 0.50 lbs. of phosphorus per 1,000 square feet per year.
- (i) Where fertilizer application or use is not described in this Article, fertilizer shall be applied in accordance with the requirements and directions provided by Florida Administrative Code Rule 5E-1.003 for turf and as found in UF/IFAS recommendations for landscape plants, vegetable gardens, fruit trees, and shrubs.

Section 12-32. Fertilizer Use Practices.

- (a) No person shall apply fertilizers containing nitrogen or phosphorus, or both, to turf or landscape plants during the restricted season.
- (b) Spreader deflector shields are required when fertilizing via rotary (broadcast) spreaders. Deflectors must be positioned such that fertilizer granules are deflected away from all impervious surfaces, any fertilizer-free zones, low maintenance buffer or low maintenance zones, surface waters, and water-bodies, including but not limited to wetlands.
- (c) Fertilizer shall not be applied, spilled, or otherwise deposited on any impervious surfaces.
- (d) 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.
- (e) Fertilizer released on an impervious surface must be immediately contained and either lawfully applied to turf or any other site or returned to the original or other appropriate container.
- (f) In no case shall fertilizer be washed, swept, or blown off impervious surfaces into any surface water or into any low maintenance or fertilizer-free zone or into any water-bodies or stormwater or drainage drain or drainage conveyance.
- (g) In no case shall fertilizer be washed, swept, or blown off or around trunks of palms or tree wells or in tree pits.

406 **Section 12-33. Exceptions.**

- 407
- 408 (a) Sections 12-29, 12-30, 12-31, and 12-32 shall not be applicable to:
- 409
- 410 1. Golf courses. For all existing public and private golf courses, the provisions of the Florida
 - 411 Department of Environmental Protection document, titled “BMPs for the Enhancement of
 - 412 Environmental Quality on Florida Golf Courses, January 2012”, and provisions set forth in
 - 413 Section 12-34 are required, and shall be followed when applying fertilizer to golf courses.
 - 414
 - 415 2. High impact areas in existing public parks and public athletic fields. Specialized turf managers
 - 416 are required to follow the provisions of the “Florida Green Industries Best Management Practices
 - 417 for Protection of Water Resources in Florida, December 2008”, for Turf and Landscape Plants,
 - 418 and provisions set forth in Section 12-34.
 - 419
 - 420 3. Fruit trees and fruit shrubs, provided that fertilizer application rates do not exceed University of
 - 421 Florida (UF)/Institute of Food and Agricultural Sciences (IFAS) maximum recommendations.
 - 422
 - 423 4. Yard waste compost, mulches, or other similar materials that are primarily organic in nature and
 - 424 are applied to improve the physical condition of the soil.
 - 425
 - 426 5. Tree trunk injection fertilization treatments that are performed by a certified arborist.
 - 427
- 428 (b) Sections 12-29, 12-30, 12-31, and 12-32, shall not be applicable to the extent expressly preempted by
- 429 general law.
- 430

431 **Section 12-34. Golf Courses, Athletic Fields, Specialized Turf, and Greenspace Requirements.**

- 432
- 433 (a) All new public and private golf course greens and all renovated golf course greens, provided their
- 434 renovation exceeds 50% of its total area, shall meet all of the following requirements:
- 435
- 436 1. Incorporate Best Management Practices as defined in the “Best Management Practices for the
 - 437 Enhancement of Environmental Quality on Florida Golf Courses”, published by the Florida
 - 438 Department of Environmental Protection.
 - 439
 - 440 2. Provide the use of native or Florida-friendly trees, shrubs, and ground cover landscaping in more
 - 441 than 80% of the total areas designated for non-play.
 - 442
 - 443 3. Specify a certified turfgrass groundcover species for all play areas that require(s) the least amount
 - 444 of fertilizer and water consumption.
 - 445
 - 446 4. Incorporate the use of green infrastructure elements and/or low impact development (LID) design
 - 447 in the design of the golf course’s drainage system and in allowing ample, uncompacted areas for
 - 448 tree root growth.
 - 449
 - 450 5. Provide a minimum (10) foot low-maintenance buffer adjacent to surface water(s), breakwater(s),
 - 451 bulkhead(s), bulwark, canal, dock, pier, revetment, rip-rap, wharf, seawall, and stormwater or
 - 452 drainage drain or drainage conveyance, including but not limited to stormwater or drainage inlets.
 - 453
- 454 (b) All new athletic fields and all renovated athletic fields, provided their renovation exceeds 50% of its total
- 455 area, shall meet all of the following requirements:
- 456

1. Incorporate Best Management Practices for landscaping by including the use of native and Florida-friendly trees, shrubs, and ground cover landscaping.
 2. Incorporate the use of green infrastructure elements and/or low impact development (LID) design in the design of the field's drainage system and in allowing ample, uncompacted areas for tree root growth.
 3. Include at minimum a ten (10) foot low-maintenance buffer adjacent to surface water(s), breakwater(s), bulkhead(s), bulwark, canal, dock, pier, revetment, rip-rap, wharf, seawall, and stormwater or drainage drain or drainage conveyance, including but not limited to stormwater or drainage inlets.
- (c) Requests for exceptions to from the requirements set forth in Sections 12-34(a) or (b) shall be submitted in writing, on a form prescribed and approved by the County Administrator, or his or her designee, detailing the project's design and details, demonstrating that good faith effort has been made to achieve substantial compliance with all applicable requirements, and explaining what non-self-created-hardship would be incurred if a proposed exception is not granted. The County Administrator or his or her designee shall have discretion to administratively approve or reject exception requests on a case-by-case basis.
- (d) Fertilizers applied to private parks, specialized turf, including athletic fields and high impact or high intensity areas within the unincorporated county shall be formulated and applied in accordance with requirements and directions provided by Florida Administrative Code Rule 5E-1.003(b)(b).
- (e) Fertilizers applied to turf and landscape plants within the unincorporated county shall be formulated and applied in accordance with requirements and directions provided by Florida Administrative Code Rule 5E-1.003(4) (Labeling for Urban Turf Fertilizers). Stated otherwise, Applicators shall not apply fertilizer in violation of said fertilizer label directions.

Section 12-35. Certification and Best Management Practices Training Programs.

- (a) All commercial and institutional applicators within or doing work in the unincorporated county shall obtain the limited certification for urban landscape fertilizer application provided for under Florida Statute Section 482.1562, within 365 days of adoption of this Article, or within 90 days of initial employment, whichever occurs later. Such applicators are required to keep a copy of such certificate with them during application activities and shall present the certificate to Monroe County, upon request.
- (b) All commercial and institutional applicators of fertilizer within the unincorporated county shall abide by and successfully complete the six-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 UF/IFAS program. Completion of this training program shall be repeated a minimum of once every five years.
- (c) Persons are encouraged to follow the recommendations of the UF/IFAS Florida Yards and Neighborhoods program when applying fertilizers.
- (d) All Applicators or Specialized turf managers of fertilizer shall abide by and successfully complete the "Florida Golf Course Best Management Practices Certification Training" offered by the University of Florida. Completion of this training program shall be repeated a minimum of once every five years.
- (e) Monroe County strongly recommends the establishment of training programs using both English-speaking and Spanish-speaking certified Best Management Practice (BMP) trainers.

509 **Section 12-36. Training of Commercial Applicators.**

- 510
- 511 (a) All commercial applicators of fertilizers within the unincorporated county should abide by and
- 512 successfully complete training and continuing education requirements in the “Florida-Friendly Best
- 513 Management Practices for Protection of Water Resources by the Green Industries” offered by the Florida
- 514 Department of Environmental Protection through the UF/IFAS “Florida-Friendly Landscapes” program
- 515 prior to obtaining a local tax receipt for any category of occupation which may apply any fertilizer to turf
- 516 or landscape plants.
- 517
- 518 (b) All businesses applying fertilizer to turf or landscape plants (including but not limited to residential
- 519 lawns, golf courses, commercial properties, and multi-family and properties maintained in one or more
- 520 community association(s), must ensure that at least one employee has an appropriate “Florida-Friendly
- 521 Best Management Practices for Protection of Water Resources by the Green Industries” training
- 522 certification prior to the business owner obtaining a business tax receipt.
- 523

524 **Section 12-37. Enforcement and Penalties.**

- 525
- 526 (a) *Violations.* Violations of this Article may be prosecuted by original county or circuit court action, or
- 527 under Chapter 162, Florida Statutes, administratively, at law, and in equity, as may be necessary to
- 528 enforce compliance with this Article, and to collect damages in the form of costs and/or fines authorized
- 529 by law.
- 530
- 531 (b) *Injunctive Relief.* The County Attorney is authorized to prosecute violations of this Article by civil action,
- 532 including but not limited to injunctive relief.
- 533
- 534 (c) *Units of Prosecution.* Each incidence of a violation under this Article constitutes a separate violation and
- 535 offense, and a separate violation and offense will be deemed committed each day during or on which a
- 536 violation occurs or continues.
- 537
- 538 (d) *Joint-and-Several Liability.* All owners, part owners, joint owners, tenants-in-common, tenants in
- 539 partnership, joint tenants, tenants by the entirety, lessees, sub-lessees, assignees, sub-assignees, and
- 540 holder(s) of legal or beneficial title to or interest in a business organization and/or property and/or violator
- 541 held in violation of this Article, shall be jointly-and-severally liable with respect to any legal or equitable
- 542 judgment or relief obtained against it to enforce this Article.
- 543
- 544 (e) *Costs.* Any court of competent jurisdiction, administrative hearing officer, the Monroe County Code
- 545 Compliance Special Magistrate, are authorized to impose against violator(s) of this Article any costs
- 546 associated with cessation and/or remediation of a violation(s) of this Article.
- 547
- 548 (f) *No Waiver or Estoppel.* It being that Monroe County possesses discretion to enforce this Article, its delay
- 549 or failure to enforce any provision contained in this Article, however long continued, shall not be deemed
- 550 a waiver or estoppel of the right for it to enforce this Article at any time thereafter.
- 551
- 552 (g) *Attorneys’ Fees and Costs.* If the County prevails in an enforcement action against a person found to be in
- 553 violation of this article, the County shall be entitled to recover its costs of investigation, attorneys’ fees
- 554 and other costs to the extent permitted by law.
- 555

556 **Section 12-38. Provisions to Be Cumulative.** This Article is cumulative to any other substantive laws,

557 ordinances, regulations, and rules, and is cumulative to any enforcement procedure that those laws,

558 ordinances, regulations, and rules may provide. This Article does not supersede or repeal or otherwise

559 modify those laws, ordinances, regulations, rules, or enforcement procedures thereunder in any way.

Monroe County may elect to take any or all remedies concurrently, and the pursuit of one does not preclude the pursuit of another.

SECTION 4. - Inconsistency, Partial Invalidity, Severability, and Survival of Provisions. This Article shall be applied within the unincorporated limits of the county to the extent not subject to preemption to the State of Florida. If any provision of this ordinance Article, or any portion thereof, is held to be invalid or unenforceable in or by any administrative hearing officer or court of competent jurisdiction, the invalidity or unenforceability of such provision, or any portion thereof, shall neither limit nor impair the operation, enforceability, or validity of any other provision of this Article, or any remaining portion(s) thereof. All other provisions of this Article, and remaining portion(s) thereof, shall continue unimpaired in full force and effect.

SECTION 5. - Repeal of Inconsistent Provisions. All ordinances or parts of ordinance in conflict with this ordinance are hereby repealed to the extent of said conflict. The repeal of an ordinance herein shall not repeal the repealing clause of such ordinance or revive any ordinance which has been repealed thereby.

SECTION 6. - Captions and Paragraph Headings. Captions and paragraph headings, where used herein, are inserted for convenience only and are not intended to descriptively limit the scope and intent of the particular paragraph or text to which they refer.

SECTION 7. - Inclusion in the Monroe County Code of Ordinances. The provisions of this ordinance shall be included and incorporated into the Code of Ordinances of Monroe County, Florida and shall be numbered to conform with the uniform numbering system of the Code.

SECTION 8. - Effective Date. This ordinance shall be filed in the Office of the Secretary of the State of Florida and shall become effective as provided by law.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida at a regular meeting held on the 16th day of June, 2021.

Mayor Michelle Coldiron	<u>Yes</u>
Mayor pro tem David Rice	<u>Yes</u>
Commissioner Craig Cates	<u>Absent</u>
Commissioner Eddie Martinez	<u>Yes</u>
Commissioner Mike Forster	<u>Yes</u>

MONROE COUNTY BOARD OF COUNTY COMMISSIONERS

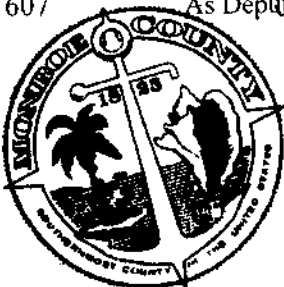
Attest: KEVIN MADOK, CLERK

By: Sally M. Abrams
As Deputy Clerk

By: Michelle Coldiron
Mayor Michelle Coldiron

**MONROE COUNTY ATTORNEY
APPROVED AS TO FORM**

Peter Morris
**PETER MORRIS
ASSISTANT COUNTY ATTORNEY**
Date: 6/7/21



FILED
JUN 23 AM 10:00
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COUNTY, FL



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MURRY E NELSON GOVERNMENT CENTER
102050 OVERSEAS HWY
KEY LARGO FL 33037

Account: 138694

Ticket: 391858

PUBLISHER'S AFFIDAVIT

STATE OF FLORIDA
COUNTY OF MONROE

[legal.text]

Before the undersigned authority personally appeared

MICHAEL LEWIS, who on oath says that he or she is

AN EMPLOYEE of the Key West Citizen, a daily newspaper published in Key West, in Monroe County, Florida; that the attached copy of advertisement, being a legal notice in the matter of was published in said newspaper in the issues of:

Sunday, May 30, 2021

Affiant further says that the Key West Citizen is a newspaper published in Key West, in said Monroe County, Florida and that the said newspapers has heretofore been continuously published in said Monroe County, Florida every day, and has been entered as periodicals matter at the post office in Key West, in said Monroe County, Florida, for a period of 1 year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

[Signature]
(Signature of Affiant)

Affirmed and subscribed before me this 4th day of June 2021

[Signature]
(Notary Public Signature)

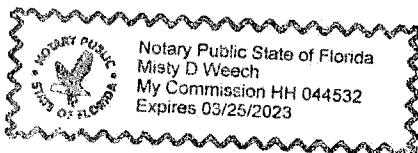
Misty D Weech
(Notary Public Printed Name)

(Notary Seal)

My commission expires 03/25/2023

Personally Known X Produced Identification

Type of Identification Produced



MONROE COUNTY BOARD OF COUNTY COMMISSIONERS NOTICE OF PUBLIC MEETING AND NOTICE OF PUBLIC HEARING NOTICE OF CHANGE TO THE MONROE COUNTY CODE OF ORDINANCES

JUNE 16, 2021

NOTICE IS HEREBY GIVEN that on **Wednesday, June 16, 2021** the **Monroe County Board of County Commissioners ("BOCC")** will hold the following Public Meeting, beginning at **9:00 A.M.** The BOCC meeting will be a hybrid format with the County Commission members meeting live at the Murray Nelson Government Center, 102050 Overseas Highway, Key Largo, Monroe County, Florida 33037, while the public will be able to participate via Zoom Webinar. At this Public Meeting the BOCC will hold the following **Public Hearing** to review and receive public comment for the following item at the following time:

1:30 P.M. (or as soon thereafter as may be heard):

AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS: AMENDING CHAPTER 12 ("ENVIRONMENT AND NATURAL RESOURCE PROTECTION") OF THE MONROE COUNTY CODE OF ORDINANCES TO AMEND ARTICLE II. ("RESERVED") BY ADOPTING AND INCORPORATING REGULATIONS RELATING TO THE USE OR APPLICATION OF FERTILIZERS, RELATING TO FLORIDA FRIENDLY FERTILIZER USE OR APPLICATION WITHIN UNINCORPORATED MONROE COUNTY; PROVIDING FOR DEFINITIONS, USE, TIMING OF FERTILIZER USE, CONTENT-BASED FERTILIZER APPLICATION REQUIREMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS INCONSISTENT HERewith; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; PROVIDING FOR TRANSMITTAL TO THE SECRETARY OF STATE; AND PROVIDING FOR AN EFFECTIVE DATE.

Please visit the Monroe County Website at www.monroecounty-fl.gov for meeting agenda updates and information regarding the various options available to the public to view the live meeting and/or to make public comments on certain agenda items.

Pursuant to Section 286.0105 Florida Statutes, if a person decides to appeal any decision of the Board of County Commissioners, with respect to any matter considered at the meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure a verbatim record of the proceedings is made, which record includes the testimony & evidence upon which the appeal is to be based.

ADA ASSISTANCE: *If you are a person with a disability who needs special accommodations in order to participate in this proceeding, please contact the County Administrator's Office, by phoning (305) 292-4441, between the hours of 8:30 a.m. - 5:00 p.m., no later than five (5) calendar days prior to the scheduled meeting; if you are hearing or voice impaired, call "711."*