



ORDINANCE NO. _____ - 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.

47 water segment that is listed as impaired by nutrients pursuant to s. 403.067, shall, at a minimum, adopt the
48 Department’s Model Ordinance for Florida-Friendly use on Urban Landscapes”; and
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50 **WHEREAS**, Section 403.9337(2)(a)-(b), Florida Statutes, provides that “A local government may adopt
51 additional or more stringent standards than the model ordinance if the following criteria are met: The local
52 government has demonstrated, as part of a comprehensive program to address nonpoint sources of nutrient
53 pollution which is science-based, and economically and technically feasible, that additional or more stringent
54 standards than the model ordinance are necessary in order to adequately address urban fertilizer contributions to
55 nonpoint source nutrient loading to a water body. The local government documents that it has considered all
56 relevant scientific information, including input from the department, the institute, the Department of Agriculture
57 and Consumer Services, and the University of Florida Institute of Food and Agricultural Sciences, if provided, on
58 the need for additional or more stringent provisions to address fertilizer use as a contributor to water quality
59 degradation. All documentation must become part of the public record before adoption of the additional or more
60 stringent criteria”; and
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62 **WHEREAS**, the quality of fresh and salt water bodies, wetlands, mangroves, seagrass(es), and other
63 natural, native features of Monroe County, is critical to the environmental, economic, and recreational prosperity
64 of Monroe County, and to the health, safety, and welfare of the residents of and visitors to Monroe County; and
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66 **WHEREAS**, fertilizer contains nutrients like nitrogen and phosphorus, which are components of
67 landscape fertilizers, and are known to be captured in runoff that is deposited in Monroe County nearshore waters
68 and waterways; and
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70 **WHEREAS**, the amount of fertilizer used or applied to a given landscape and the method of use or
71 application have potential for creating adverse nutrient pollution; and
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73 **WHEREAS**, Monroe County’s natural and artificial stormwater and drainage conveyances regulate the
74 flow of stormwater to prevent or mitigate flooding; and
75

76 **WHEREAS**, surface water runoff and base flow runoff flows from residential, commercial, and industrial
77 developments, and other lands of Monroe County, enter(s) into natural and artificial stormwater and drainage
78 conveyances and natural water bodies in Monroe County; and
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80 **WHEREAS**, leaching and runoff of nutrients from improper or excessive fertilizer use or application
81 contributes to nitrogen and phosphorus loading in Monroe County’s stormwater and drainage conveyances and
82 natural water bodies; and
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84 **WHEREAS**, the detrimental effects of nutrient-laden runoff are magnified in a coastal or island
85 community such as Monroe County, due to the proximity of stormwater and drainage conveyances to nearshore
86 waters; and
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88 **WHEREAS**, the Board finds and recognizes that excessive and improper use or application of fertilizers
89 can contribute to water quality issues and can lead to water quality degradation; and
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91 **WHEREAS**, Monroe County has demonstrated, as part of a comprehensive program to address nonpoint
92 sources of nutrient pollution, that this ordinance is appropriate to address adverse fertilizer contributions to
93 nonpoint source nutrient loading to local water bodies; and
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95 **WHEREAS**, in the process of adoption of this ordinance, the Monroe County Board of County
96 Commissioners has considered all relevant scientific information, including but not limited to:
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- 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;

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

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

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

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

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

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

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130 **ARTICLE II. - USE OR APPLICATION OF FERTILIZERS**

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

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

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

148 **Section 12-27. Construction and Interpretation.** This Article is necessary for the health, safety, and
149 welfare of the residents of and visitors to the county. This Article shall be liberally construed to effect the public
150 purpose(s) hereof. Interpretation of this Article shall be construed in favor of Monroe County, and such
151 construction and interpretation shall be entitled to great weight in adversarial administrative proceedings, at trial,
152 in bankruptcy, and on appeal. To the extent of any conflict between this Article and other Monroe County
153 ordinances or regulations, and to the extent of any conflict within sections within this Article, the more restrictive
154 is deemed to be controlling.
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156 **Section 12-28. Definitions.** The phrases, terms, and words used in this Article shall be, except as
157 specifically defined otherwise herein, the same as they have been defined in the Monroe County Code of
158 Ordinances and in the Monroe County Land Development Code. The following terms shall have the following
159 specific definitions as used herein, unless the context clearly indicates otherwise:
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161 *Application or Apply, or variants thereof.* Shall mean the actual physical deposit of fertilizer to turf,
162 specialized turf, or landscape plants.
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164 *Applicator.* Shall mean any natural or legal person who applies fertilizer on turf, specialized turf, or
165 landscape plants in Monroe County. The term includes but is not limited to persons, commercial fertilizer
166 applicators and institutional applicators.
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168 *Best management practices or BMP.* Shall mean turf and landscape practices, or a combination of
169 practices, based upon peer-reviewed research, field-testing, and expert review, determined to be the most effective
170 and practicable on-location means, including economic and technological considerations, for improving water
171 quality, conserving water supplies, and protecting natural resources, and which minimize the negative
172 environmental impacts of installation and maintenance of landscapes.
173

174 *Best Management Practices Training Program.* Shall mean a training program approved pursuant to
175 Florida Statute Section 403.9338, or any more stringent requirements set forth in this Article, that includes the
176 most current version of the Florida Department of Environmental Protection’s “Florida-Friendly Best
177 Management Practices for Protection of Water Resources by the Green Industries, 2008”.
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179 *Commercial fertilizer applicator.* Shall mean any natural or legal person who applies fertilizer in Monroe
180 County, on property not owned by the person applying the fertilizer, or by the employer of the applicator, in
181 exchange for money, goods, services, or other valuable consideration.
182

183 *Fertilizer.* Shall mean any substance or mixture of substances that contains one or more recognized plant
184 nutrients and promotes plant growth, or controls soil acidity or alkalinity, or provides other soil enrichment, or
185 provides other corrective measures to the soil. The term includes granular, liquid, rapid-release and slow or
186 controlled release fertilizer.
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188 *Fertilize, fertilizing, or fertilization.* Shall mean the act of applying fertilizer to turf, specialized turf, trees,
189 or landscape plants.
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191 *Fertilizer-Free Zone.* Shall mean within twenty (20) feet from the seawall, riprap or bank or shoreline of
192 any surface water of Monroe County and any storm drain, pond, stream, waterway, lake, canal, or wetland.
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194 *Florida-Friendly Landscaping.* Shall mean quality, low-maintenance landscapes that conserve water,
195 protect the environment, are adaptable to local conditions, and are drought tolerant. The principles of such
196 landscaping include planting the right plant in the right place, efficient watering, responsible and appropriate
197 fertilization, responsible and appropriate mulching, responsible and appropriate attraction of wildlife, responsible
198 and appropriate management of yard pests, recycling yard waste, reduction of stormwater runoff, and waterfront

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

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202 *Granular*. Shall mean composed of small grains or particles.

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

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

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

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

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

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

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

232
233 *Low maintenance buffer or Low maintenance zone*. Shall mean an area a minimum of ten (10) feet wide
234 adjacent to water courses which is planted to capture and treat stormwater and is designed to capture and treat
235 stormwater and is designed to not require fertilization, watering, mowing, etc.

236
237 *Organic fertilizers*. Shall mean fertilizers that are derived from living materials, excluding biosolids.
238 Examples of organic fertilizers include but are not limited to animal manures, composted materials, and plant
239 residues. Organic fertilizers are usually considered to be "slow release" fertilizers because many of the nutrients
240 must be broken down by soil microbes before they become available for plant uptake.

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

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

- 248
249 (1) Ammonium nitrate;
250 (2) Ammonium sulfate;

- 251 (3) Calcium nitrate;
252 (4) Diammonium phosphate;
253 (5) Monoammonium phosphate;
254 (6) Potassium nitrate;
255 (7) Sodium nitrate;
256 (8) Urea (not in the form of slow release nitrogen); or
257 (9) Others as may be designated by the Association of American Plant Food Control Officials.
258

259 *Restricted Season.* Shall mean May 15 through October 31, as well as during the time period during
260 which a flood watch or flood warning, or a tropical storm watch or tropical storm warning, or a hurricane watch
261 or hurricane warning, regardless of the time of year, is in effect for any portion of unincorporated Monroe County,
262 or in any area of unincorporated Monroe County if heavy rain is likely or ongoing.
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264 *Saturated soil.* Shall mean a soil in which the voids are filled with water. Saturation does not require flow.
265 For the purposes of this Article, soils shall be considered saturated if standing water is present or if the pressure of
266 a person standing on or an object lying on the soil causes the release of free water.
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268 *Site supervisor.* Shall mean the direct supervisor of landscape maintenance personnel.
269

270 *Slow release, controlled release, timed release, or water insoluble nitrogen.* Shall mean nitrogen in a
271 form which delays its availability for plant uptake and use after application, or which extends its availability to the
272 plant longer than a reference rapid or quick release product. Forms of slow release, controlled release, slowly
273 available, or water insoluble nitrogen include but are not limited to:
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- 275 (1) Isobutylidene diurea (“IBDU”);
276 (2) Resin, polymer, or sulphur coated urea;
277 (3) Biosolids or residuals from domestic wastewater treatment;
278 (4) Ureaformaldehyde;
279 (5) Composted animal manure;
280 (6) Others as may be designated by the Association of American Plant Food Control Officials.
281

282 *Slow or controlled release fertilizer.* Shall mean a fertilizer containing a plant nutrient in a form which
283 delays its availability for plant uptake and use after application, or which extends its availability to the plant
284 significantly longer than a referenced “rapidly available nutrient fertilizer”.
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286 *Specialized turf.* Shall mean areas of grass used for athletic fields, golf course practice, recreational or
287 play areas, athletic fields, and other similar activities.
288

289 *Specialized turf manager.* Shall mean a person responsible for fertilizing or directing the fertilization of
290 specialized turf.
291

292 *Surface water.* Shall mean fresh, brackish, saline, or tidal waters, contained in bounds created naturally or
293 artificially, including but not limited to bays, creeks, ditches, estuaries, impoundments, lagoons, lakes, ponds,
294 rivers, springs, streams, wetlands, water bodies, and including but not limited to canals, whether located in or on
295 the Atlantic Ocean side of Monroe County or in or on the Florida Bay or Gulf of Mexico side of Monroe County.
296

297 *Turf, sod, or lawn.* Shall mean a piece of grass-covered soil held together by the roots of the grass.
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299 *Urban landscape.* Shall mean pervious areas on residential, commercial, industrial, institutional, rights-
300 of-way, or on other lands that are planted with turf or horticultural plants.
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Section 12-29. Timing of Fertilizer Use.

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

Section 12-30. Fertilizer-Free Zones.

- (a) Except as provided in subsection (b) immediately below, fertilizer shall not be applied within twenty (20) feet of any breakwater, bulkhead, bulwark, canal, dock, pier, revetment, rip-rap, wharf, or within twenty (20) feet of any seawall, or within twenty (20) feet of any altered or unaltered shoreline, or within twenty (20) feet of any surface water. In the event of a conflict, the greater extent of distance shall control. By way of example, therefore, if an area is not within twenty (20) feet of a surface water, but is within twenty (20) feet of a breakwater, bulkhead, bulwark, canal, dock, pier, revetment, rip-rap, wharf, seawall, etc., the fact of such area's falling within twenty (20) feet of such breakwater, bulkhead, bulwark, canal, dock, pier, revetment, rip-rap, wharf, seawall, etc., shall prohibit fertilizer from being applied in such area.
- (b) Spreader deflector shields are required when fertilizing adjacent to 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) Newly planted turf and landscape plants may be fertilized within a fertilizer-free zone only for a sixty (60) day period beginning thirty (30) days after planting, if needed, to allow the plants to become well established and caution is used to prevent direct deposition of nutrients into the water.

Section 12-31. Fertilizer Content and Use Rates.

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

- 354 (e) Except as provided in paragraphs (a)-(d) of this section, fertilizers applied to turf and landscape plants
355 within the county shall be formulated and applied in accordance with requirements and directions
356 provided by Florida Administrative Code Rule 5E-1.003(4) (“Labeling Requirements for Urban Turf
357 Fertilizers”). Stated otherwise, Applicators shall not apply fertilizer in violation of said fertilizer label
358 directions.
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- 360 (f) Fertilizer containing nitrogen or phosphorus, or both, shall not be applied before seeding or sodding a site
361 and shall not be applied for the first thirty (30) days after seeding or sodding, except when hydroseeding
362 for temporary or permanent erosion control in an emergency situation (e.g., saltwater floods, etc.), or in
363 accordance with the Stormwater Pollution Plan for that site.
364
- 365 (g) No more than 0.50 lb. of readily available nitrogen per 1,000 square feet shall be applied to any turf or
366 landscape area in one application or use. This includes no more than one (1) pound total nitrogen per one
367 thousand (1,000) square feet applied at any one time of granular fertilizer and no more than one half
368 pound of nitrogen per 1,000 square foot area per application of liquid fertilizer.
369
- 370 (h) Phosphorus fertilizer shall not be applied to turf or landscape plants unless a soil deficiency has been
371 verified by an approved test. Where a deficiency has been professionally verified by an approved test,
372 phosphorus fertilizer shall not be applied at application rates that exceed 0.25 lbs. of phosphorus per
373 1,000 square feet per application and not to exceed 0.50 lbs. of phosphorus per 1,000 square feet per year.
374
- 375 (i) Where fertilizer application or use is not described in this Article, fertilizer shall be applied in accordance
376 with the requirements and directions provided by Florida Administrative Code Rule 5E-1.003 for turf and
377 as found in UF/IFAS recommendations for landscape plants, vegetable gardens, fruit trees, and shrubs.
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379 **Section 12-32. Fertilizer Use Practices.**
380

- 381 (a) No person shall apply fertilizers containing nitrogen or phosphorus, or both, to turf or landscape plants
382 during the restricted season.
383
- 384 (b) Spreader deflector shields are required when fertilizing via rotary (broadcast) spreaders. Deflectors must
385 be positioned such that fertilizer granules are deflected away from all impervious surfaces, any fertilizer-
386 free zones, low maintenance buffer or low maintenance zones, surface waters, and water-bodies,
387 including but not limited to wetlands.
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- 389 (c) Fertilizer shall not be applied, spilled, or otherwise deposited on any impervious surfaces.
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- 391 (d) Any fertilizer applied, spilled, or deposited, either intentionally or accidentally, on any impervious surface
392 shall be immediately and completely removed to the greatest extent practicable.
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- 394 (e) Fertilizer released on an impervious surface must be immediately contained and either lawfully applied to
395 turf or any other site or returned to the original or other appropriate container.
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- 397 (f) In no case shall fertilizer be washed, swept, or blown off impervious surfaces into any surface water or
398 into any low maintenance or fertilizer-free zone or into any water-bodies or stormwater or drainage drain
399 or drainage conveyance.
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- 401 (g) In no case shall fertilizer be washed, swept, or blown off or around trunks of palms or tree wells or in tree
402 pits.
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Section 12-33. Exceptions.

- (a) Sections 12-29, 12-30, 12-31, and 12-32 shall not be applicable to:
 - 1. Golf courses. For all existing public and private golf courses, the provisions of the Florida Department of Environmental Protection document, titled “BMPs for the Enhancement of Environmental Quality on Florida Golf Courses, January 2012”, and provisions set forth in Section 12-34 are required, and shall be followed when applying fertilizer to golf courses.
 - 2. High impact areas in existing public parks and public athletic fields. Specialized turf managers are required to follow the provisions of the “Florida Green Industries Best Management Practices for Protection of Water Resources in Florida, December 2008”, for Turf and Landscape Plants, and provisions set forth in Section 12-34.
 - 3. Fruit trees and fruit shrubs, provided that fertilizer application rates do not exceed University of Florida (UF)/Institute of Food and Agricultural Sciences (IFAS) maximum recommendations.
 - 4. 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.
 - 5. Tree trunk injection fertilization treatments that are performed by a certified arborist.
- (b) Sections 12-29, 12-30, 12-31, and 12-32, shall not be applicable to the extent expressly preempted by general law.

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

- (a) All new public and private golf course greens and all renovated golf course greens, provided their renovation exceeds 50% of its total area, shall meet all of the following requirements:
 - 1. Incorporate Best Management Practices as defined in the “Best Management Practices for the Enhancement of Environmental Quality on Florida Golf Courses”, published by the Florida Department of Environmental Protection.
 - 2. Provide the use of native or Florida-friendly trees, shrubs, and ground cover landscaping in more than 80% of the total areas designated for non-play.
 - 3. Specify a certified turfgrass groundcover species for all play areas that require(s) the least amount of fertilizer and water consumption.
 - 4. Incorporate the use of green infrastructure elements and/or low impact development (LID) design in the design of the golf course’s drainage system and in allowing ample, uncompacted areas for tree root growth.
 - 5. Provide a minimum (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.
- (b) All new athletic fields and all renovated athletic fields, provided their renovation exceeds 50% of its total area, shall meet all of the following requirements:

- 457 1. Incorporate Best Management Practices for landscaping by including the use of native and
458 Florida-friendly trees, shrubs, and ground cover landscaping.
459
460 2. Incorporate the use of green infrastructure elements and/or low impact development (LID) design
461 in the design of the field's drainage system and in allowing ample, uncompacted areas for tree
462 root growth.
463
464 3. Include at minimum a ten (10) foot low-maintenance buffer adjacent to surface water(s),
465 breakwater(s), bulkhead(s), bulwark, canal, dock, pier, revetment, rip-rap, wharf, seawall, and
466 stormwater or drainage drain or drainage conveyance, including but not limited to stormwater or
467 drainage inlets.
468

469 (c) Requests for exceptions to from the requirements set forth in Sections 12-34(a) or (b) shall be submitted
470 in writing, on a form prescribed and approved by the County Administrator, or his or her designee,
471 detailing the project's design and details, demonstrating that good faith effort has been made to achieve
472 substantial compliance with all applicable requirements, and explaining what non-self-created-hardship
473 would be incurred if a proposed exception is not granted. The County Administrator or his or her designee
474 shall have discretion to administratively approve or reject exception requests on a case-by-case basis.
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476 (d) Fertilizers applied to private parks, specialized turf, including athletic fields and high impact or high
477 intensity areas within the unincorporated county shall be formulated and applied in accordance with
478 requirements and directions provided by Florida Administrative Code Rule 5E-1.003(b)(b).
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480 (e) Fertilizers applied to turf and landscape plants within the unincorporated county shall be formulated and
481 applied in accordance with requirements and directions provided by Florida Administrative Code Rule
482 5E-1.003(4) (Labeling for Urban Turf Fertilizers). Stated otherwise, Applicators shall not apply fertilizer
483 in violation of said fertilizer label directions.
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485 **Section 12-35. Certification and Best Management Practices Training Programs.**
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487 (a) All commercial and institutional applicators within or doing work in the unincorporated county shall
488 obtain the limited certification for urban landscape fertilizer application provided for under Florida
489 Statute Section 482.1562, within 365 days of adoption of this Article, or within 90 days of initial
490 employment, whichever occurs later. Such applicators are required to keep a copy of such certificate with
491 them during application activities and shall present the certificate to Monroe County, upon request.
492

493 (b) All commercial and institutional applicators of fertilizer within the unincorporated county shall abide by
494 and successfully complete the six-hour training program in the "Florida-Friendly Best Management
495 Practices for Protection of Water Resources by the Green Industries" offered by the Florida Department
496 of Environmental Protection through the UF/IFAS program. Completion of this training program shall be
497 repeated a minimum of once every five years.
498

499 (c) Persons are encouraged to follow the recommendations of the UF/IFAS Florida Yards and
500 Neighborhoods program when applying fertilizers.
501

502 (d) All Applicators or Specialized turf managers of fertilizer shall abide by and successfully complete the
503 "Florida Golf Course Best Management Practices Certification Training" offered by the University of
504 Florida. Completion of this training program shall be repeated a minimum of once every five years.
505

506 (e) Monroe County strongly recommends the establishment of training programs using both English-
507 speaking and Spanish-speaking certified Best Management Practice (BMP) trainers.
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Section 12-36. Training of Commercial Applicators.

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

Section 12-37. Enforcement and Penalties.

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

Section 12-38. Provisions to Be Cumulative. This Article is cumulative to any other substantive laws, ordinances, regulations, and rules, and is cumulative to any enforcement procedure that those laws, ordinances, regulations, and rules may provide. This Article does not supersede or repeal or otherwise modify those laws, ordinances, regulations, rules, or enforcement procedures thereunder in any way.

560 Monroe County may elect to take any or all remedies concurrently, and the pursuit of one does not
561 preclude the pursuit of another.
562

563 **SECTION 4. - Inconsistency, Partial Invalidity, Severability, and Survival of Provisions.** This Article shall
564 be applied within the unincorporated limits of the county to the extent not subject to preemption to the State of
565 Florida. If any provision of this ordinance Article, or any portion thereof, is held to be invalid or unenforceable in
566 or by any administrative hearing officer or court of competent jurisdiction, the invalidity or unenforceability of
567 such provision, or any portion thereof, shall neither limit nor impair the operation, enforceability, or validity of
568 any other provision of this Article, or any remaining portion(s) thereof. All other provisions of this Article, and
569 remaining portion(s) thereof, shall continue unimpaired in full force and effect.
570

571 **SECTION 5. - Repeal of Inconsistent Provisions.** All ordinances or parts of ordinance in conflict with this
572 ordinance are hereby repealed to the extent of said conflict. The repeal of an ordinance herein shall not repeal the
573 repealing clause of such ordinance or revive any ordinance which has been repealed thereby.
574

575 **SECTION 6. - Captions and Paragraph Headings.** Captions and paragraph headings, where used herein, are
576 inserted for convenience only and are not intended to descriptively limit the scope and intent of the particular
577 paragraph or text to which they refer.
578

579 **SECTION 7. - Inclusion in the Monroe County Code of Ordinances.** The provisions of this ordinance shall be
580 included and incorporated into the Code of Ordinances of Monroe County, Florida and shall be numbered to
581 conform with the uniform numbering system of the Code.
582

583 **SECTION 8. - Effective Date.** This ordinance shall be filed in the Office of the Secretary of the State of Florida
584 and shall become effective as provided by law.
585

586 **PASSED AND ADOPTED** by the Board of County Commissioners of Monroe County, Florida at a regular
587 meeting held on the ____ day of _____, 2021.
588

589
590 Mayor Michelle Coldiron _____
591
592 Mayor *pro tem* David Rice _____
593
594 Commissioner Craig Cates _____
595
596 Commissioner Mike Forster _____
597
598 Commissioner Eddie Martinez _____
599

601 **MONROE COUNTY BOARD OF COUNTY COMMISSIONERS**
602

603 Attest: KEVIN MADOK, CLERK
604
605

606 By: _____
607 As Deputy Clerk

By: _____
Mayor Michelle Coldiron

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM

PETER MORRIS
ASSISTANT COUNTY ATTORNEY
Date: 6/7/21