

ORDINANCE NO. 01-21

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF TEQUESTA, FLORIDA, AMENDING THE VILLAGE CODE OF ORDINANCES AT CHAPTER 78. ZONING, ARTICLE IX. SUPPLEMENTAL REGULATIONS, DIVISION 4. LANDSCAPING, BY AMENDING THIS DIVISION TO UPDATE "FLORIDA FRIENDLY LANDSCAPING" REQUIREMENTS FOR FERTILIZER USE THROUGHOUT THE VILLAGE; AMENDING DEFINITIONS, REVISING SHORELINE CONSIDERATIONS; UPDATING MAINTENANCE, YARD WASTE AND FERTILIZER MANAGEMENT PROVISIONS; INCLUDING PROVISIONS FOR APPLICABILITY, FINDINGS, PURPOSE AND INTENT, LICENSING AND TRAINING OF APPLICATORS, FERTILIZER CONTENT AND APPLICATION RATES, TIMING AND BEST PRACTICES FOR APPLICATION, AND DESIGNATION OF FERTILIZER FREE ZONES; PROVIDING FOR ENFORCEMENT OF VIOLATIONS AND PENALTIES; PROVIDING FOR INTERNAL CONSISTENCY; PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUBSECTION OF CHAPTER 78, ZONING, SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Village Council of the Village of Tequesta has received the strong recommendation of the Village's Environmental Advisory Committee to adopt revisions and updates to the Village's current fertilizer management code; and

WHEREAS, the Village's Environmental Advisory Committee's recommendation is based upon the committee's thorough research and analysis which is also supported by third party stakeholders including but not limited to the Loxahatchee River Environmental Control District; and

WHEREAS, having carefully considered the above recommendations and support, the Village Council of the Village of Tequesta now desires to update its "Florida Friendly Landscaping" requirements pertaining to fertilizer use throughout the Village; and

WHEREAS, the Village Council has determined that the adoption of these code amendments will serve the best interests of the Village of Tequesta, and will promote the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF TEQUESTA, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

Section 1: Chapter 78. Zoning, of the Code of Ordinances of the Village of Tequesta is hereby amended at Article IX. Supplemental Regulations, Division 4. Landscaping, by updating this Division and the Village's current "Florida Friendly Landscaping" requirements pertaining to fertilizer use throughout the Village, amending definitions, revising shoreline considerations; updating maintenance, yard waste and fertilizer management provisions; including provisions for applicability, findings, purpose and intent, licensing and training of applicators, fertilizer content and application rates, timing and best practices for application, and designation of fertilizer free zones; providing for enforcement of violations and penalties; providing for internal consistency; providing that Division 4. Landscaping, shall hereafter read as follows:

Chapter 78 – ZONING

ARTICLE IX. – SUPPLEMENTAL REGULATIONS

DIVISION 4. – LANDSCAPING

Sec. 78-391. – Purpose and intent.

[THIS SECTION SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED]

Sec. 78-392. – Applicability.

(a) The provisions of this division shall apply to the development, redevelopment, rehabilitation, and maintenance of all property within the Village of Tequesta, as specified herein. Whenever regulations or restrictions imposed by this ordinance conflict with other ordinances or regulations, or are either more or less restrictive than regulations or restrictions imposed by any governmental authority through legislation, rule or regulations, the regulations, rules or restrictions which are more restrictive, or which impose the highest standards or requirements shall govern.

(1) No permit shall be issued for new construction for building or paving, or for new landscaping installation or landscaping renovation in excess of 50 percent of the estimated value of the existing landscaped areas unless the landscape plans and specifications comply with the provisions hereof; and no certificate of occupancy, certificate of completion or similar final approval shall be issued until the requirements herein are met.

(2) All village facilities will be managed in accordance with Florida Friendly Landscaping practices by March 31, 2013. All new and renovated Village facility landscapes will be designed in accordance with these principles and be constructed and installed using Florida-Friendly landscape materials. Parks,

open spaces, and trails will be designed with these principles in mind, as applicable. All village landscape service contractors will adhere to these practices. All new bid specifications and contracts will reflect this requirement beginning one year after the approval of this regulation.

- (3) Specific application of the Florida-Friendly landscape provisions of this division shall include, but not be limited to:
 - a. All new landscapes for private development projects including, but not limited to, commercial, residential, mixed use and recreation projects, including new single-family and two-family homes;
 - b. Developer-installed landscapes at entrances into and common areas of single-family and multi-family projects;
 - c. Any development approved prior to April 12, 2012, if the site plan or other permit guiding landscaping is thereafter amended or modified to an extent greater than fifty (50) percent of the value of the existing development.
- (b) Exempted from the provisions of the Florida-Friendly landscape requirements (note: not irrigation requirements) are the following, as applicable:
 - (1) Bona fide agricultural activities as defined in the Florida Right to Farm Act, F.S. 823.14;
 - (2) Other properties not subject to or covered under the Florida Right to Farm Act that have pastures used for grazing of livestock;
 - (3) Athletic fields;
 - (4) Golf course practice and play areas; however, all golf course landscaping shall comply with the provisions of the Florida Department of Environmental Protection document, "Best Management Practices for the Enhancement of Environmental Quality on Florida Golf Courses" when applying fertilizer to such practice and play areas;
 - (5) Any development with an approved site plan or valid building permit issued prior to April 12, 2012, subject to the modifications listed above;
 - (6) Turfgrass in a dedicated stormwater management area or canal maintenance area or similar and shall not be calculated in the percentages of turfgrass;

- (7) Public parks and other play areas indicated on an approved site plan;
 - (8) Cemeteries;
 - (9) Rights-of-way for public utilities, including electrical transmission and distribution lines, and natural gas pipelines; ~~and~~
 - (10) Vegetable gardens; however, vegetable gardens shall only be exempt from fertilizer management requirements when located more than ten feet from any water body or wetland;
 - (11) Any lands used for bona fide scientific research, including, but not limited to, research on the effects of fertilizer use on urban stormwater, water quality, agronomics, or horticulture.
- (c) Exemptions to the requirements of this division may be granted by variance for individual projects if the applicant can demonstrate that compliance will be impractical and will result in an undue hardship.

Sec. 78-393. - Definitions.

The following terms, when used in this division, shall have the meanings ascribed to them in this section, except where context clearly indicates a different meaning:

ANSI A300 Standards: American National Standard for Tree Care operations published by the National Arborist Association and approved by the American National Standards Institute.

~~*Application or apply:* The actual physical deposit of fertilizer to turf or landscape plants.~~

~~*Applicator:* Any person who applies fertilizer on turf and/or landscape plants in the village.~~

Automatic controller: A mechanical or electronic device, capable of automated operation of valve stations to set the time, duration, and frequency of a water application.

Best management practices (BMPs): A practice 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.

Caliper: Quantity in inches of tree trunk diameter measured at four-and one-half feet above the ground.

Canopy tree: Any single trunked, self-supporting plant, upright in growth, with a minimum size of 16 feet high, six-foot spread, three-inch caliper and five feet of clear trunk.

~~*Commercial fertilizer applicator:* Any person who applies fertilizer on turf and/or landscape plants in the village in exchange for money, goods, services, or other valuable consideration.~~

Code Enforcement Officer, Official, or Inspector: Any designated employee or agent of the Village whose duty it is to enforce codes and ordinances enacted by the Village.

Constant pressure/flow control: A device that maintains a constant flow, or pressure, or both.

Drought-tolerant: A plant that is capable of surviving a dry spell of more than two or three months without supplemental watering.

Emitter: This term primarily refers to devices used in micro irrigation systems.

~~*Fertilize, fertilizing, or fertilization:* The act of applying Fertilizer to turf specialized turf or landscape plant.~~

~~*Fertilizer:* Any substance or mixture of substances, except pesticide/fertilizer mixtures such as "weed and feed" products, 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.~~

Filter: A device in irrigation distribution systems that separates sediment or other foreign matter.

Florida-friendly landscape: The principles of Florida-friendly landscaping include planting the right plant in the right place, efficient watering, appropriate fertilization, mulching, attraction of wildlife, responsible management of yard pests, recycling yard waste, reduction of stormwater runoff, and waterfront protections. Additional components of Florida-friendly landscape include planning and design, soil analysis, the uses of solid waste compost, practical use of turf, and proper maintenance.

Ground cover: Low growing plants, other than turfgrass, used to cover the soil and form a continuous, low mass of foliage.

Hardscape: Areas such as patios, decks, driveways, paths, and sidewalks that do not require irrigation.

Hat racking: Cutting back of tree limbs to a point between branch collars/buds (internodal cutting) larger than one inch in diameter within the tree's crown.

Hydro zone: A distinct grouping of plants with similar water needs and climatic requirements.

Impervious surface: Those surfaces which do not absorb water. They consist of all buildings, parking areas, driveways, roads, sidewalks and any areas of concrete or asphalt.

~~*Institutional applicator:* Any person, other than a non-commercial or commercial applicator that applies fertilizer for the purpose of maintaining turf and/or landscape plants. Institutional applicators shall include, but not be limited to, owners and managers of public lands, schools, parks, religious institution, utilities, industrial or business sites and any residential properties maintained in condominium and/or common ownership.~~

Irrigated landscape area: All outdoor areas that require a permanent irrigation system.

Irrigation system: An artificial watering system designed to transport and distribute water to plants.

Irrigation zone: A grouping of sprinkler heads, soakers, bubblers, or micro irrigation emitters operated simultaneously by the control of one valve.

Landscape: Any combination of living plants (such as grass, ground cover, shrubs, vines, hedges, or trees) and non-living landscape material (such as rocks, pebbles, sand, mulch or decorative paving materials). Non-living landscape material shall not be used as major landscape ground cover. In no case shall these materials exceed ten percent of the landscaped area.

Landscape plan: Plans and drawings showing the location of buildings, structures, pedestrian, transportation, or environmental systems, and the detail for placement of site amenities, accessibility components, plantings, and other tangible objects. Plans shall include installation details for plant materials, soil amendments, mulches, edging and other similar materials. Plans shall be numbered, dated, North arrow indicated, scaled, and sealed by an appropriately licensed professional where required by F.S. ch. 481, pt. II.

Landscape Plant: Any native or exotic tree, shrub, or groundcover (excluding turf).

Landscaped area: The entire parcel; less the building footprint, driveways, hardscapes such as decks and patios, and non-porous areas. Water features are included in the calculation of the landscaped area. This landscaped area includes Xeriscape as defined in F.S. ch. 373.185(1)(b).

Landscape strip: a strip of land along the perimeter of the site containing trees, barriers, ground cover and/or other plant material.

Low-flow point applicators: Irrigation applicators with output less than 60 gallons per hour (gph).

Micro irrigation (low volume): The application of small quantities of water directly on or below the soil surface, usually as discrete drops, tiny streams, or miniature sprays through emitters placed along the water delivery pipes (laterals). Micro irrigation encompasses a number of methods or concepts including drip, subsurface, bubbler, and spray irrigation, previously referred to as trickle irrigation, low volume, or low flow irrigation that deliver water directly to plant root zones with a high degree of efficiency, no runoff, and little to no evaporation.

Moisture sensing device or soil moisture sensor: A device to indicate soil moisture in the root zone for the purpose of controlling an irrigation system based on the actual needs of the plant.

Mulch: Non-living, organic, or synthetic materials customarily used in landscape design to retard erosion and retain moisture.

Native vegetation: Any plant species with a geographic distribution indigenous to all, or part, of the State of Florida as identified in: Guide to Vascular Plants of Florida, R.P. Wunderlin, 1998, University Press of Florida, Gainesville, or the Atlas of Florida Vascular Plants (<http://www.florida.plantsatlas.usf.edu/>). Native vegetation shall consist of those plant species indigenous to the ecological communities of South Florida.

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

Pervious surface: Any area of land that is landscaped or planted, allows natural passage of water, and is not covered by impervious materials or structures. Pervious surfaces include pervious paving materials.

Pervious paving materials: A porous asphaltic, concrete, or other surface and a high-void aggregate base which allows for rapid infiltration and temporary storage of rain on, or runoff delivered to, paved surfaces.

Plant bed: A grouping of trees, shrubs, ground covers, perennials or annuals growing together in a defined area devoid of turfgrass, normally using mulch around the plants.

Plant communities: An association of native plants that are dominated by one or more prominent species, or a characteristic physical attribute.

Planting plan: Specifications and installation details for plant materials, soil amendments, mulches, edging, gravel, and other similar materials.

Point of connection: The location where an irrigation system is connected to a water supply.

Pop-up sprays: Spray heads that pop up with water pressure and provide a continuous spray pattern throughout a given arc of operation.

Pressure tank: A pressurized holding tank for irrigation water coming from wells to minimize cycling of the water pump.

~~*Prohibited application period:* The time period during which a Flood Watch or warning or a tropical storm watch or warning, or a hurricane watch or warning is in effect for any portion of the village, issued by the National Weather Service, or if heavy rain is likely.~~

Rain sensor device: A low voltage electrical or mechanical component placed in the circuitry of an automatic irrigation system that is designed to turn off a sprinkler controller when precipitation has reached a pre-set quantity.

Runoff: Water that is not absorbed by the soil or landscape and flows from the area.

Sod or lawn: A piece of turf-covered soil held together by the roots of the turf.

Soil moisture sensor: See "moisture sensing device".

Tree: Any self-supporting woody plant, together with its root system, growing upon the earth, usually with one trunk of at least three inches in diameter at a height of four and one-half feet above the ground or a multistemmed trunk system with a definitely formed crown.

Turf and/or turfgrass: A mat layer of monocotyledonous plants such as Bahia, Bermuda, Centipede, Seaside, Paspalum, St. Augustine, and Zoysia.

Valve: A device used to control the flow of water in the irrigation system.

Village: The Village of Tequesta, Florida.

Water use zone: See "Hydro zone".

Sec. 78-394. - Florida-friendly landscaping general provisions; design standards.

[THIS SECTION SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED]

Sec. 78-395. - Shoreline considerations.

- (a) Grading and design of property adjacent to bodies of water shall conform to federal, state, and local regulations which may include, but is not limited to, the use of berms and/or swales to intercept surface runoff of water and debris that may contain fertilizers or pesticides.
- (b) A ~~voluntary six-foot~~ mandatory ten-foot low maintenance zone is ~~recommended, but not mandated~~ required, from any pond, stream, water course, lake, wetland or from the top of a seawall. A swale/berm system is recommended for installation at the landward edge of the low maintenance zone to capture and filter runoff. No mowed or cut vegetative material ~~should~~ shall be deposited or left remaining in this zone or deposited in the water. Care should be taken to prevent the over-spray of aquatic weed products in this zone.
- (c) When mowing near the shoreline, direct the chute away from the water body. Riparian or littoral zone plants that do not require mowing or fertilization should be planted in these areas. See the Florida Waterfront Property Owners Guide or the Florida Fish and Wildlife Conservation Commission's Invasive Plant Management Section for more information.
- (d) Mangrove trimming shall be performed in accordance with F.S. §§ 403.9321—403.9334.

Sec. 78-396. – Turf areas and soils.

[THIS SECTION SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED]

Sec. 78-397. – Prohibited plant species.

[THIS SECTION SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED]

Sec. 78-398. - Irrigation.

[THIS SECTION SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED]

Sec. 78-399. - Maintenance.

- (a) *Generally.*
 - (1) The owner, occupant, and tenant and the respective agent of each, if any, shall be jointly and severally responsible for all landscaping and irrigation equipment, including that located in the unpaved portion of the public right-of-way between the paved portion of the public right-of-way and the boundary of the owner's property. Landscaping shall be maintained in a good condition, so as to present a

healthy, neat, and orderly appearance at least equal to the original installation, and shall be kept free from refuse and debris. Any dead vegetation and landscaping material shall be promptly replaced with healthy, living plantings. Vegetation proximally located to electric utility lines shall also be maintained pursuant to section 74-2.

- (2) Landscape maintenance for hire shall be performed in accordance with recommendation in the Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries. Landscape maintenance by homeowners should be performed in accordance with recommendations of the University of Florida Cooperative Extension Service and Florida Yards and Neighborhoods publications.
- (3) A regular irrigation maintenance schedule shall be included, but not be limited to, checking, adjusting, and repairing irrigation equipment; and resetting the automatic controller according to the season yearly.
- (4) Pruning of trees shall be permitted to allow for healthy growth, and to promote safety considerations. Trees which cause a conflict with views, signage or lighting shall not be pruned more than the maximum allowed. The village manager, community development director or building official may suspend the provisions of this section in case of a natural disaster. The removal of any tree shall be pursuant to the applicable provisions of article VII of chapter 50.
 - a. A maximum of one-fourth of tree canopy may be removed from a tree within a one-year period, provided that the removal conforms to the standards of crown reduction, crown cleaning, crown thinning, crown raising, vista pruning, and crown restoration pruning techniques. All pruning shall comply with the American National Standards Institute, ANSI 300 (Tree, Shrub, and other Woody Plant Maintenance), as amended.
 - b. If other than the mature height and spread is desired for any required tree, the size and shape shall be indicated on an approved landscape plan. Shaping of a tree shall be permitted if the tree is to be used as an accent, focal point or as part of an overall landscape design. A maintenance

commitment shall be clearly outlined on the approved landscape plan to explain the care and upkeep of a shaped tree.

- c. Hat racking (tree topping), as defined in this division, is strictly prohibited.
- d. The following shall be exempt from the requirements of the above tree pruning regulations; however, removal of any such tree shall be pursuant to the applicable provisions of article VII of chapter 50:
 - i. Trees affected by FAA and airport safety regulations.
 - ii. Trees which interfere with safe site triangles, utility lines, or utility structures. Electric utilities shall prune trees in proximity to overhead power lines pursuant to section 74-2.
 - iii. Trees having crown dieback or decay greater than one-third the tree canopy.
 - iv. Trees having suffered damage due to natural or accidental causes.
 - v. Trees having insect or disease damage greater than one-third of the tree crown.
 - vi. Trees in botanical gardens, or botanical research centers.
 - vii. Trees which the residential property owner obtains documentation from an arborist certified by the International Society of Arboriculture or a Florida licensed landscape architect confirming that the tree presents a danger to persons or property prior to the tree being pruned or removed.

(b) *Yard waste management; composting and use of mulches.*

- (1) In no case shall grass clippings, vegetative material, and/or vegetative debris be washed, swept, or blown off into stormwater drains, ditches, conveyances, water bodies, wetlands, or sidewalks or roadways. Any material that is accidentally so deposited shall be immediately removed to the maximum extent practicable.

~~Yard wastes shall not be disposed of or stored directly adjacent to shorelines or in canals, in ditches or swales, or near storm drains. In no case shall grass clippings, vegetative material, and/or vegetative debris either intentionally or accidently, be washed, swept, or blown off into stormwater drains, ditches, conveyances, water bodies, wetlands, or sidewalks, or roadways.~~

- (2) Grass clippings ~~should~~ shall be left on lawns. Grass clippings are a benefit to lawns, replacing nutrients drawn from the soil and as mulch that helps retain moisture, lessening the need to irrigate. Mulching mowers are recommended, because the grass clippings are chopped very finely by special blades. If a conventional mower equipped with a side discharge chute is used, when mowing near the shoreline, direct the chute away from the waterbody and when mowing upland areas, direct the chute back onto the yard, not onto the road or driveway.
- (3) Mulches applied and maintained at appropriate depths in planting beds assist soils in retaining moisture, reducing weed growth, and preventing erosion. A layer of organic mulch three inches deep is recommended in plant beds and around individual trees in turf areas. Use of byproduct or recycled mulch is recommended. Mulch beds shall be specified on the landscape plan.

(c) *Fertilizer management.*

This part shall be known as the Village of Tequesta fertilizer-friendly management code.

(1) Applicability.

This part shall be applicable to and shall regulate any and all applicators of fertilizer and areas of application of fertilizer to landscapes within the Village, unless such application or applicator are specifically exempted by Sec. 78-392, or as follows:

- a. The application of yard waste compost, mulches or similar materials that are organic in nature and are applied to improve the physical condition of the soil;
- b. The use of reclaimed water for irrigation;
- c. Specialized turf grasses such as Zoysia or Bermuda as part of a periodic dethatching process during the growing period, provided that Best Management Practices for fertilizer application are followed;
- d. For all other specialized turf areas, the specialized turf managers which shall use their best professional judgement and apply the concepts and principles embodied in the Florida Green BMP's, to maintain the health and function of their specialized turf areas.

The provisions of this section shall apply to all fertilizer applications within the Village of Tequesta with the following exceptions:

- a. ~~Bona fide farm operations as defined in Florida Right to Farm Act, F.S. § 823.14, as amended, provided that fertilizers are applied in accordance with the appropriate best management practices manual adopted by the Florida Department of Agriculture and Consumer Services, Office of Agricultural Water Policy for the crop in question; and~~
- b. ~~Fertilizer application for golf courses, parks, and athletic fields shall follow the provisions as indicated in Rule 5E-1.003(2)(d), F.A.C., as amended.~~
- e. ~~Non-commercial applicators not otherwise required to be certified, such as private citizens on their own residential property, are encouraged to follow the recommendations of the UF/IFAS Extension and UF/IFAS Florida Yards and Neighborhoods program when applying fertilizers.~~

~~(2) Licensing and training of commercial fertilizer applicators.~~

- a. ~~By January 1, 2014, any commercial fertilizer applicator to an urban landscape must be certified by the department of agriculture and consumer services pursuant to F.S. § 482.1562, as amended.~~
- b. ~~All commercial and institutional applicators of fertilizer within the Village of Tequesta, shall successfully complete and apply fertilizers in accordance with 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 Extension.~~

(2) Definitions.

For this part, the following terms shall have the meanings set forth herein-below unless the context clearly indicates otherwise:

- a. “Application” or “Apply” means the actual physical deposit of fertilizer to turf or landscape plants.
- b. “Applicator” means any Person who applies fertilizer on turf and/or landscape plants.

- c. “Best Management Practices” (BMP’s) 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.
- d. “Commercial Fertilizer Applicator”, except as provided in 482.1562(9) F.S., means any person who applies fertilizer for payment or other consideration to property not owned by the person or firm applying the fertilizer or the employer of the applicators.
- e. “Fertilize,” “Fertilizing,” or “Fertilization” means the act of applying fertilizer to turf, specialized turf, or landscape plants.
- f. “Fertilizer” means 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.
- g. “Institutional Applicator” means any person, other than a private, non-commercial or a Commercial Applicator (unless such definitions also apply under the circumstances), that applies fertilizer for the purpose of maintaining turf and/or landscape plants. Institutional Applicators shall include, but shall not be limited to, owners, managers or employees of public lands, schools, parks, religious institutions, utilities, industrial or business sites and any residential properties maintained in condominium and/or common ownership.
- h. “Saturated soil” means a soil in which the voids are filled with water. Saturation does not require flow. For the purposes of this ordinance, soils shall be considered saturated if standing water is present or the pressure of a person standing on the soil causes the release of free water.
- i. “Slow Release,” “Controlled Release,” “Timed Release,” “Slowly Available,” or “Water Insoluble Nitrogen” means nitrogen in a form which delays its availability for plant uptake and use after application, or

which extends its availability to the plant longer than a reference rapid or quick release product.

- i. “Specialized turf” means areas of grass used for athletic fields, activity fields, parks, cemeteries, and other similar areas.
- k. “Specialized turf manager” means a person responsible for fertilizer or directing the fertilization of “specialized turf”
- l. "Urban landscape" means pervious areas on residential, commercial, industrial, institutional, highway rights-of-way, or other nonagricultural lands that are planted with turf or horticultural plants. For the purposes of this section, agriculture has the same meaning as provided in F.S. 570.02.

(3) Findings.

As a result of the Florida Department of Environmental Protection’s determination that certain water bodies within Palm Beach County, including portions of the Loxahatchee River, are impaired for excessive nutrient levels, the Village Council finds that the Best Management Practices contained in the most recent edition of the “Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries” should be included in this part.

(4) Purpose and Intent.

This part regulates the proper use of fertilizers by any applicator; requires proper training of commercial and institutional fertilizer applicators; establishes training and licensing requirements; establishes the timing of fertilizer application; specifies allowable fertilizer application rates and methods, fertilizer-free zones and exemptions. This part requires the use of Best Management Practices to minimize negative environmental effects said fertilizers have in and on the Village’s natural and constructed stormwater conveyances, rivers, creeks, canals, lakes, estuaries and other water bodies. Collectively, these water bodies are an asset important to the environmental, recreational, cultural, and economic well-being of the residents of the Village and the surrounding areas, and contribute to the general health and welfare of the public. Overgrowth of algae and vegetation hinders the effectiveness of flood attenuation provided by natural and constructed stormwater conveyances. Regulation of nutrients, including both phosphorus and

nitrogen contained in fertilizer, is anticipated to help improve and maintain water and habitat quality.

(5) Fertilizer content and application rates.

~~(3) Fertilizers applied to turf and/or landscape plants within the Village of Tequesta shall be formulated and applied in accordance with requirements and directions provided on the fertilizer bag and by Rule 5E-1.003(2), F.A.C. Nitrogen or phosphorus fertilizer shall only be applied to turf or landscape plants during growth periods, not during dormant periods. These fertilizers shall not be applied except as provided for by the directions on the fertilizer bag unless soil or plant tissue deficiency has been verified by UF/IFAS Extension or another accredited laboratory or test.~~

- a. Fertilizers containing nitrogen applied to Turf and/or Landscaping Plants within the Village shall contain no less than 50% slow-release nitrogen per guaranteed analysis label. Other limitations on nitrogen and phosphorous in fertilizers applied to turf within the Village shall be in accordance with requirements and directions provided by Rule 5E-1.003(2), Florida Administrative Code, Labeling Requirements for Urban Turf Fertilizers. Under Rule 5E-1.003(2), Florida Administrative Code, required application rate, and frequency maximums, which vary by plant and turf types, can be found on the labeled fertilizer bag or container.
- b. Nitrogen or phosphorus fertilizer shall not be applied to Turf or Landscape Plants except as provided in a. above for Turf, or in UF/IFAS recommendations for Landscape Plants, vegetable gardens, and fruit trees and shrubs, unless a soil or tissue deficiency has been verified by a UF/IFAS approved test methodology.
- c. Fertilizer used for sports turf at golf courses shall be applied in accordance with the recommendations in “Best Management Practices for the Enhancement of Environmental Quality on Florida Golf Courses” published by the FDEP, dated September 2012, as may be amended.

Fertilizer used at parks or athletic fields shall be applied in accordance with Rule 5E-1.003(2), Florida Administrative Code.

(6) (4) Timing of fertilizer application.

- a. Care should be taken to limit the application of fertilizers containing nitrogen and/or phosphorus to turf and/or landscape plants during the summer rainy season. No applicator shall apply fertilizers containing nitrogen and/or phosphorus to Turf and/or Landscape Plants during the rainy season period from June 1st through September 30th or at any time to saturated soils or during the time which a tropical storm or hurricane watch or warning has been issued by the National Weather Service or when heavy rain (two inches or more within a 24-hour period) is forecast. Outside of this rainy season period and prohibited times, fertilizers containing nitrogen and/or phosphorus shall only be applied to Turf or Landscape Plants during growth periods, not during dormant periods.
- b. Fertilizer containing nitrogen and/or phosphorous 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 (wildfire, etc.), or in accordance with the stormwater pollution prevention plan for the site.
- c. In no case shall fertilizers containing nitrogen and/or phosphorus to turf and/or landscape plants during times which a flood, tropical storm, or hurricane watch or warning issued by the National Weather Service is in effect for any portion of Palm Beach County.

(7) (5) Fertilizer application practices.

- a. Spreadable 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, fertilizer-free zones and water bodies, including wetlands.
- b. Fertilizer shall not be applied, spilled or otherwise deposited on any impervious surface.

- c. Any fertilizer applied, spilled, or deposited, either intentional or accidentally, on any impervious surface shall be immediately and completely removed to the greatest extent practicable.
- d. Fertilizer releases on an impervious surface shall be immediately contained and either legally applied to turf or any other legal site, or returned to the original or other appropriate container.
- e. In no case shall fertilizer be washed, swept, or blown off impervious surfaces into stormwater drains, ditches, conveyance, or water bodies.

(8) (6) Fertilizer free zones. ~~Fertilizers shall not be applied within ten feet or three feet if deflector shield or drop spreader is used, of any pond, lake, canal or wetlands or watercourse.~~ Fertilizer shall not be applied within ten (10) feet of any pond, stream, watercourse, lake, canal, or wetland as defined by the Florida Department of Environmental Protection (Chapter 62-340, Florida Administrative Code) or from the top of a seawall or bulkhead, unless a deflector shield, drop spreader, or liquid applicator with a visible and sharply defined edge, is used, in which case a minimum of 3 feet shall be maintained. Newly planted Turf and/or Landscape Plants may be fertilized in this zone only for a sixty (60) day period beginning 30 days after planting, if needed, to allow the plants to become well established. Caution shall be used to prevent direct deposition of fertilizer into the water.

(9) Training.

- a. All commercial and institutional applicators of fertilizer within the Village, 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 University of Florida/Palm Beach County Cooperative Extension Service Florida-Friendly Landscapes Program, or an approved equivalent program.
- b. Non-commercial and non-institutional applicators not otherwise required to be certified, such as private citizens on their own residential property, are encouraged to follow the recommendations of the University of

Florida FAS “Florida-Friendly Landscape Program” and labels instructions when applying fertilizers.

(10) Licensing of commercial applicators.

- a. All businesses applying fertilizer to Turf and/or Landscape Plants (including but not limited to residential lawns, golf courses, commercial properties, and multi-family and condominium properties) must ensure that the business owner or his/her designee holds the appropriate “Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries” training certificate prior to the business owner obtaining a Local Business Tax Certificate. Owners for any category of occupation which may apply any fertilizer to Turf and/or Landscape Plants shall provide proof of completion of the program to the Village’s Building Department. It is the responsibility of the business owner to maintain the “Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries” certificate to receive his business tax receipt annually.
- b. After December 31, 2020, all commercial applicators of fertilizer within the Village shall have and carry in their possession at all times when applying fertilizer, evidence of certification by the Florida Department of Agriculture and Consumer Services as a Commercial Fertilizer Applicator per 5E-14.117(18) F.A.C.

Sec. 78-400. – Landscape plans.

[THIS SECTION SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED]

Sec. 78-401. – Compatibility with streetscape plans.

[THIS SECTION SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED]

Sec. 78-402. – Landscaping on single-family and duplex lots.

[THIS SECTION SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED]

Sec. 78-403. – Landscaping abutting residential areas; perimeter planting strip required for parking areas.

[THIS SECTION SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED]

Sec. 78-404. – Groundcover and trees in planting strips.

[THIS SECTION SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED]

Sec. 78-405. – Accessways through landscaped areas.

[THIS SECTION SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED]

Sec. 78-406. – Interior landscaping or parking areas.

[THIS SECTION SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED]

Sec. 78-407. – Planting strip for parking areas abutting other parking area.

[THIS SECTION SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED]

Sec. 78-408. – Percentage of landscape coverage required.

[THIS SECTION SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED]

Sec. 78-409. – Landscaping around principal structures.

[THIS SECTION SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED]

Sec. 78-410. – Notice of violation.

If the owner, tenant, or agent, jointly or severally, shall fail to meet the requirements of this division as to landscaping or irrigation system maintenance, or if the existing trees, shrubbery, grass or ground covering shall be permitted to die, either intentionally or unintentionally, and is not replaced by the owner, tenant or agent of the real property involved within 30 days of the event occurring, unless exempt pursuant to Village Code Sec. 50-236, then the building official, code enforcement officer, or their respective designees, shall notify in writing the person responsible for the maintenance or replacement of same to comply with the

requirements of this division within 30 days from date of delivery of the notice. Failure to comply with the requirements of this section shall constitute a violation of this division.

Sec. 78-411. – Show cause hearing; right of village to do work and assess costs; additional remedies.

[THIS SECTION SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED]

Sec. 78-412. – Assessment to constitute lien.

[THIS SECTION SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED]

Sec. 78-413. – Performance surety.

[THIS SECTION SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED]

Sec. 78-414. – Education.

[THIS SECTION SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED]

Sec. 78-415. – Incentives.

[THIS SECTION SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED]

Sec. 78-416. - Enforcement and monitoring.

The provisions of this division shall be enforced by the Village's code enforcement special magistrate pursuant to the authority granted by F.S. § 162.01 et seq., as amended, and Chapter 2 of the Tequesta Code of Ordinances, as amended. ~~The village shall adopt policies and procedures that effectuate this division as soon as practical. Until such time the policies and procedures are established, there shall be no enforcement of the requirements of the fertilizer and pesticide sections of this division~~

Section 2: Each and every other section and subsection of Chapter 78, Zoning, shall remain in full force and effect as previously adopted.

Section 3: All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.

Section 4: Should any Section or provision of this Ordinance or any portion thereof any paragraph, sentence or word be declared by a Court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

Section 5: Specific authority is hereby granted to codify this Ordinance.

Section 6: This Ordinance shall become effective immediately upon adoption.



ORDINANCE

Date

01-21

3-11-2021

Upon Second Reading

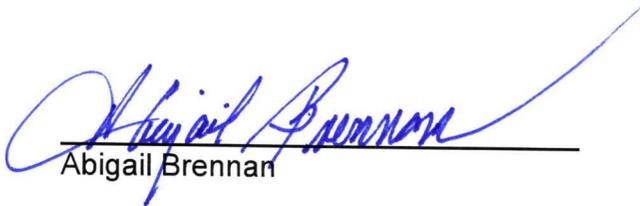
Motion Council Member Frank D'Ambra

Second Council Member Laurie Brandon

	FOR	AGAINST	ABSENT	CONFLICT
Mayor Abigail Brennan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vice-Mayor Kyle Stone	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Council Member Laurie Brandon	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Council Member Frank D'Ambra	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Council Member Bruce Prince	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The Mayor thereupon declared the Ordinance duly passed and adopted.

MAYOR OF TEQUESTA:



 Abigail Brennan

ATTEST:



 Lori McWilliams, MMC
 Village Clerk

