



**Leon County Planning Commission  
Leon County, Florida**

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**Agenda Item  
Executive Summary**

March 2, 2021

**Title:**

Proposed Ordinance to Amend Article XIV of Chapter 10, the Land Development Code, Entitled "Fertilizer Use"

**Staff:**

John Kraynak, Director, Environmental Services Division  
Nawfal Ezzagghi, Deputy Director, Environmental Services Division

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**Issue Briefing:**

This item requests a consistency review of proposed Modifications to Leon County's Fertilizer Ordinance. The proposed amendments are intended to provide consistency with the State Fertilizer Model Ordinance.

**Fiscal Impact:**

This item has no fiscal impact.

**Staff Recommendation:**

Option #1: Find the proposed Ordinance consistent with the Comprehensive Plan and recommend that the Board of County Commissioners adopt the Ordinance based on the findings of fact and the information contained herein, and any evidence presented at the hearing herein.

## **Report and Discussion:**

### **Background**

At a Board of County Commissioner May 12, 2009 workshop regarding on-site sewage disposal systems, the Board directed staff to draft a Fertilizer Ordinance to implement Policy 4.2.5:5. of the Conservation Element of the Comprehensive Plan, which requires the County to “restrict fertilizer content and application rates within the Primary Springs Protection Zone (PSPZ)” for Wakulla Springs. In addition, the State of Florida mandates that each county and municipal government located within a watershed of a water body or water segment that is listed as impaired by nutrients shall, at a minimum, adopt the Florida Department of Environmental Protection’s Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes. It was determined that the improper use of fertilizers on lands within the unincorporated areas of the County contributed to adverse effects on surface and/or groundwater. Limiting the amount of fertilizer applied to the landscape would reduce the risk of nutrient enrichment of surface and groundwaters, which can cause water quality problems. At the October 13, 2009 Public Hearing, the Board adopted a Fertilizer Ordinance consistent with the State’s Model that applies to the unincorporated area of the County.

There have been no changes to the Ordinance since its adoption. The Fertilizer Ordinance regulates the proper use of fertilizers by any fertilizer applicator within the unincorporated area of the County, provides maximum fertilizer application rates, provides fertilizer free zones and low maintenance zones, requires proper training for the commercial and institutional fertilizer applicators, and provides for certification of commercial and institutional fertilizer applicators. It should be noted that the County is preempted from regulating fertilizer applications on agricultural lands, as those properties are regulated by best management practices instituted by the Florida Department of Agriculture and Consumer Services.

Training and certification are provided by the University of Florida/Leon County Cooperative Extension Office. The training material includes, at a minimum, the most current version of the “Florida Green Industries Best Management Practices for Protection of Water Resources in Florida, October 2010,” and all of the provisions of the Fertilizer Ordinance. There have been approximately 825 certifications issued since the Ordinance adoption.

Certification is not required for non-commercial applicators such as residential property owners. There is an underlying assumption that if the non-commercial applicator follows the labeled application rate directions on the fertilizer product, they will be in compliance with the Ordinance. The labeling on fertilizer products must meet State labeling requirements that comply with the application rates of the Ordinance.

At a July 14, 2020 Board of County Commissioner meeting, the Board directed staff to review Leon County’s fertilizer regulations to determine whether an update was needed. At its September 29, 2020 meeting, the Board directed staff to review other jurisdictions and consider comments from the Science Advisory Committee (SAC) and the Water Resources Committee (WRC) for modifications to the Ordinance.

### **Analysis:**

The County’s current Fertilizer Ordinance was based on the State of Florida Model Fertilizer Ordinance as it existed in 2009. Since adoption of the County’s current Ordinance, the State Model Ordinance has been updated. Staff reviewed the current State Model Ordinance to determine what opportunities may exist to improve Leon County’s Fertilizer Ordinance and ensure consistency with the state model. Staff also reviewed other comparable jurisdictions, including Indian River, Seminole and Alachua Counties, to identify other potential modifications. Staff found that the majority of the jurisdictions have adopted the State Model Ordinance similar to both Leon County’s and the City’s Fertilizer Ordinances. In some instances, local governments have gone beyond the State Model Ordinance. In these instances, Florida Statutes allow more stringent standards for surface waters impaired by nutrients, but require science-based documentation that nutrients are a significant cause for the impairment. Several counties with significant, well documented impairments have implemented requirements covering two main areas: fertilization prohibition requirements during summer months and slow release fertilization.

### Fertilization Prohibition Periods

Several counties have adopted a prohibition period for nitrogen and phosphorus fertilization during a restricted season from June 1 to September 30 but have found it to be a controversial decision. The concept prohibits fertilizer use during the summer months when there are heavy rainfall periods that could wash the fertilizer downstream to surface waters. However, there are several reasons for not adopting a fertilizer prohibition period. First, and most important, there is no data currently to support reduced nitrogen loading to both surface and groundwater where summertime fertilizer bans are in place. In fact, the science supports the opposite. The optimal time to fertilize is in the summer months when the turfgrass shoot and root growth is optimal and nutrient uptake is at its highest point. University of Florida/Institute of Food and Agricultural Sciences (IFAS) research showed that when fertilizer is applied to healthy, actively growing turf, very little nitrate leaches from the system. Inability to apply the fertilizer during these months can result in soil erosion, loss of ability to filter stormwater runoff and could allow weed encroachment.

Secondly, a prohibition period could provide an unintended consequence of overfertilization before and after the prohibition period when the turf growth rate and nutrient uptake is slower. This scenario could allow more nutrients to leach through the system. Lastly, the initial adoptions of prohibition periods caused significant controversy after retailers removed fertilizer products from their shelves to comply with the prohibition, which resulted in the legislature adopting an amendment against removal of any fertilizer products from the shelf. Pinellas County is the only jurisdiction that was grandfathered in before the legislature enacted the prohibition. Therefore, it should be noted there is no way to enforce a prohibition period by removing the sale of fertilizer from the shelf.

The potential prohibition issue was discussed at length with the SAC and WRC which resulted in unanimous support for not including a prohibition period in the proposed Ordinance. The SAC and WRC supported adding IFAS recommendations for reduced nitrogen loading limits which

have been included in the proposed Ordinance. There is also a recommendation to apply fertilizer only if the lawn needs it. Based on science data and support from the SAC and WRC, staff is not recommending a fertilization prohibition period for Leon County.

#### Slow Release Fertilization

Slow release fertilization is defined as nitrogen in a form which delays and extends its availability for plant uptake and use after application. The current State Model Ordinance and Leon County’s Ordinance do not specifically require a minimum percentage of slow release fertilizer; however, most fertilizer products on the market have a slow release component. Vigoro, for example, has a product with a 65% slow release component and Milorganite is nearly all slow release.

Staff contacted jurisdictions that have adopted a slow release requirement and found that enforcement was extremely difficult. Pinellas County was the first to adopt a 65% slow release requirement and mandated that retail suppliers not sell fertilizer products that do not meet this requirement. As previously mentioned, this caused significant controversy which resulted in the legislature adopting a prohibition against removal of any fertilizer products from the shelf. The jurisdictions that have a slow release requirement cannot mandate that non-slow release fertilizer be removed from the retail shelf. These jurisdictions use a public education program to promote slow release fertilizer instead.

Staff is not recommending a slow release requirement at this time. There is already a 30% slow release requirement if nitrogen is applied at an application rate above 0.7 pounds of nitrogen per 1,000 square feet, and most of the products on the market have a slow release component. The issue of increasing the slow release requirement above the current 30% was discussed with the SAC and WRC. There was concern about the confusion this could cause for citizens purchasing fertilizer and following the application instructions which would place them in violation of a potential higher slow release requirement. Instead, both the SAC and WRC supported including a recommendation, not a requirement, in the proposed Ordinance for a 50% or greater slow release fertilizer to be applied during the summer months from June 1 to September 30, only if needed. Staff has included this recommendation in the proposed Ordinance.

Staff recommends further public outreach through the County’s website to promote slow-release fertilizer use. The Leon County Cooperative Extension Office already recommends a 30% slow release fertilizer in their training and commercial fertilizer applicator certification program. The City’s “Think About Personal Pollution” (TAPP) fertilizer brochure also recommends 30% slow release consistent with University of Florida/Institute of Food and Agricultural Sciences (IFAS) recommendations.

#### Ordinance Modifications for Compliance with the State Model Ordinance

Based upon staff’s analysis and unanimous support by the SAC and WRC, there are three general areas that were proposed for modification: definitions and references, application rates and applicator certification expiration.

#### Definitions and References

There are updates proposed to the definitions associated with the Fertilizer Ordinance. For example, the “Commercial fertilizer applicator” definition now has an exemption for landscapers who apply fertilizer only to individual residential properties using fertilizer and equipment provided by the residential property owner or resident to comply with Chapter 482.1562(9), Florida Statutes. There are also new proposed definitions for “saturated soil” and “slow release” fertilizer. “Saturated soil” is used in the fertilizer prohibition period. “Slow release” is a requirement when readily available nitrogen fertilizer is applied in a quantity greater than 0.7 pounds per 1,000 square feet.

There are references in the Model Ordinance that have been added and updated that need to be reflected in the County’s Ordinance. For example, the Florida Green Industries Best Management Practices for Protection of Water Resources in Florida was updated from June 2002 to 2008. There are new references that have been added, such as required evidence of certification for commercial applicators per 5E-14.117(18) Florida Administrative Code (F.A.C.). Staff has updated all definitions and references for consistency with the State Model Ordinance.

#### Application Rates

The annual nitrogen fertilization limits for Zoysia lawns was reduced from 3-5 pounds of nitrogen per 1,000 square feet to 2-3 pounds of nitrogen per 1,000 square feet for consistency with the Model Ordinance. The nitrogen limits for Bahia, Bermuda, Centipede and St. Augustine grasses remained the same. There are, however, newly proposed limitations based on seasons. No more than 2 pounds of nitrogen per 1,000 square feet can be applied in the spring and summer and no more than 1 pound of nitrogen per 1,000 square feet can be applied in the fall. Fertilization can only be applied to actively growing turf, meaning winter applications are prohibited. These are important modifications that were changed in Rule 5E-1.003(2), F.A.C. that are included in the proposed Fertilizer Ordinance as well.

#### Applicator Certification Expiration

In accordance with Florida Statutes, the commercial fertilizer applicator certification expiration timeframe was increased from three years to four years. Staff recommends changing this in Leon County’s proposed Ordinance to comply with State Statute and for consistency with the City of Tallahassee’s Ordinance, which has already been amended to reflect four years.

#### Consistency with City of Tallahassee Regulations

Staff reviewed the City of Tallahassee’s Fertilizer Ordinance and found that the proposed modifications to comply with the State Model Ordinance are currently included in the City’s Ordinance; therefore, if the aforementioned modifications are made to Leon County’s Fertilizer Ordinance, the two Ordinances would be similar. This would simplify county-wide requirements for applicators, promote compliance by homeowners and landscape professionals, and be consistent with the Board’s direction to consider passage of Ordinances consistent with the City’s when prudent and in the County’s best interest.

#### Findings

The proposed Ordinance was unanimously approved by the SAC, WRC and the Leon County Advisory Committee on Quality Growth.

Comprehensive Plan Consistency Determination

Tallahassee-Leon County Planning Department staff conducted a review of the proposed Modifications to the Fertilizer Ordinance and determined it is consistent with the Tallahassee-Leon County Comprehensive Plan (Attachment #2).

Recommendation:

Staff recommends that the proposed Ordinance be found consistent with the Tallahassee-Leon County Comprehensive Plan.

Public Notification & Response:

The Public Hearing has been publicly noticed consistent with the requirements of Florida Statutes (Attachment #3). The Ordinance requires action by the Board of County Commissioners. The Development Support and Environmental Management Department will advertise the County’s Public Hearings on the proposed Ordinance consistent with State Statutes and the Leon County Code of Laws.

**Options:**

- Option #1: Find the proposed Ordinance consistent with the Comprehensive Plan and recommend that the Board of County Commissioners adopt the Ordinance based on the findings of fact and the information contained herein, and any evidence presented at the hearing herein.
- Option #2: Recommend that the Board of County Commissioners not adopt the proposed Ordinance.
- Option #3: Provide staff other direction.

**Recommendation:**

Option #1

**Attachments:**

1. Proposed Ordinance
2. Planning Consistency Memo
3. Notice of Public Hearing

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**ORDINANCE NO. 21- \_\_\_\_\_**

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

WHEREAS, as a result of impairment to Leon County’s surface waters caused by excessive nutrients under the Florida Impaired Waters Rule, or, as a result of increasing levels of nitrogen and phosphorus in the surface and/or ground water within the aquifers or springs within the boundaries of the unincorporated areas of the county, the Leon County Board of County Commissioners has determined that the improper use of fertilizers on lands within the unincorporated areas of the county contributes to adverse effects on surface and/or groundwater. Accordingly, the Leon County Board of County Commissioners find that additional measures than are otherwise required by the most recent edition of the “*Florida Friendly Best Management Practices for Protection of Water Resources*” by the Green Industries, 2010 may be required by this ordinance. Furthermore, a violation of this ordinance is determined to be irreparable and irreversible.

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

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

**ARTICLE XIV. FERTILIZER USE**

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

1 This Article regulates the proper use of fertilizers by any fertilizer applicator;  
2 requires proper training of commercial and institutional fertilizer applicators; establishes  
3 training and licensing requirements; establishes a prohibited and restricted application  
4 period; specifies allowable fertilizer application rates and methods, fertilizer-free zones,  
5 low maintenance zones, and exemptions. The Article requires the use of Best Management  
6 Practices that provide specific management guidelines to minimize negative secondary and  
7 cumulative environmental effects associated with the misuse of fertilizers. These  
8 secondary and cumulative effects have been observed in and on the County's natural and  
9 constructed stormwater and drainage conveyances, rivers, creeks, canals, springs, lakes,  
10 ponds, and other water bodies. Collectively, these water bodies are an asset critical to the  
11 environmental, recreational, cultural and economic well being of the County's residents  
12 and the health of the public. Overgrowth of algae and vegetation hinder the effectiveness  
13 of flood attenuation provided by natural and constructed stormwater and drainage  
14 conveyances. Regulation of nutrients, including both phosphorous and nitrogen contained  
15 in fertilizer, will help improve and maintain water and habitat quality.

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

20 *Administrator* means the County Administrator, or designee.

21 *Application* or *apply* means the actual physical deposit of fertilizer to turf or  
22 landscape plants.

23 *Applicator* means any person who applies fertilizer on turf and/or landscape plants  
24 in the unincorporated areas of the county.

1           *Best management practices* under this Article means turf and landscape practices  
2 or combination of practices based on research, field-testing, and expert review, determined  
3 to be the most effective and practicable on-location means, including economic and  
4 technological considerations, for improving water quality, conserving water supplies and  
5 protecting natural resources.

6           *County* means the unincorporated areas of the county.

7           *County approved best management practices training program* means a training  
8 program approved by the County Administrator or designee that includes at a minimum,  
9 a) the most current version of the “~~Florida-Friendly Green Industries Best Management~~  
10 ~~Practices for Protection of Water Resources by the Green Industries, in Florida, June~~  
11 ~~2008~~,” as revised and, b) all of the provisions and requirements of this Article; or c) an  
12 alternative training program under Section 10-14.111 of this Article.

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

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

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

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

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

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

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

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

11           *Low maintenance zone* means an area a minimum of ~~ten six~~ (106) feet wide adjacent  
12 to water courses which is planted and managed in order to eliminate the need for  
13 fertilization and minimize the need for watering, mowing, etc.

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

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

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

22           *Prohibited application period* means the time period during which a flood watch or  
23 warning, or a tropical storm watch or warning, or a hurricane watch or warning, or a 3-day

1 cone of uncertainty is in effect for any portion of Leon County, issued by the National  
2 Weather Service, or if heavy rain is expected.

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

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

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

15 *Turf, sod, or lawn* means a piece of grass-covered soil held together by the roots of  
16 the grass.

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18 **Sec. 10-14.103. Applicability.**

19 This Article shall be applicable to and shall regulate any and all applicators of  
20 fertilizer and areas of application of fertilizer within the unincorporated areas of the county,  
21 unless such applicator is specifically exempted by the terms of this Article. This Article  
22 shall be applicable to and shall regulate any and all application of fertilizer within the  
23 unincorporated areas of the county unless otherwise provided in Article IV of Chapter 10  
24 of the Leon County Land Development Code (LDC). In case of a conflict between the

1 requirements in Article IV of Chapter 10, LDC, and this Article, the provisions in Article  
2 IV of Chapter 10, LDC, shall prevail. This Article shall be prospective only and shall not  
3 impair any existing contracts.

4

5 **Sec. 10-14.104. Timing of fertilizer application.**

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

9 No applicator shall apply fertilizers containing nitrogen and/or phosphorus to turf  
10 and/or landscape plants during ~~the prohibited application period.~~ a flood watch or warning,  
11 or a tropical storm watch or warning, or a hurricane watch or warning, or a 3-day cone of  
12 uncertainty is in effect for any portion of Leon County, issued by the National Weather  
13 Service, or if heavy rain is expected.

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15 **Sec. 10-14.105. Fertilizer content and application rates; irrigation with reclaimed**  
16 **wastewater.**

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

22 (b) Except as provided in Section 10-14.105(a), fertilizers shall be applied to turf  
23 and/or landscape plants at the lowest rate necessary. Nitrogen shall not be applied at an  
24 application rate greater than 0.7 lbs of readily available nitrogen per 1000 ft<sup>2</sup> at any one

1 time based on the soluble fraction of formulated fertilizer, with no more than 1 lb total N  
 2 per 1000 ft<sup>2</sup> to be applied at any one time and not to exceed the annual nitrogen limits  
 3 ~~recommendations~~ in the Fertilization Guidelines for Established Turfgrass Lawns set forth  
 4 below for convenience:

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6 **Fertilization Guidelines for Established Turfgrass Lawns within the unincorporated**  
 7 **areas of the county:**

8				UF/IFAS
9		Nitrogen <u>limits recommendations</u>		<u>recommendations*</u>
10	<u>Species</u>	16 <u>(lbs N / 1000 ft<sup>2</sup> / year)</u>	22	<u>(lbs N / 1000 ft<sup>2</sup> / year)</u>
11	Bahia grass	17 2-3	23	<u>1-3</u>
12	Bermuda grass	18 3-5	24	<u>3-5</u>
13	Centipede grass	19 1-2	25	<u>0.4-2</u>
14	St. Augustine grass	20 2-4	26	<u>2-4</u>
15	Zoysia grass	21 <del>2-3</del> 3-5	27	<u>2-3</u>

28 \*These are recommendations only if the lawn needs it. It is further recommended that a  
 29 50% slow release or greater fertilizer be applied during the summer months from June 1 to  
 30 September 30 only if needed.

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

34 (d) Not more than 1 lb of total nitrogen per 1,000 square feet per application may  
 35 be applied during the fall or winter.

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

38 (f) The use of water from a reclaimed wastewater system must be in accordance  
 39 with an approved reclaimed wastewater reuse nutrient management plan. The plan shall

1 contain, at a minimum, the frequency and volume of application, restricted periods of  
2 application (if any), application rates and required best management practices. If fertilizer  
3 other than that contained in the reclaimed water is to be applied, the nutrient management  
4 plan shall show that the cumulative nutrient loading does not exceed those established in  
5 this Article.

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7 **Sec. 10-14.106. Impervious surfaces.**

8 Fertilizer shall not be applied, spilled, or otherwise deposited on any impervious  
9 surfaces. Any fertilizer applied, spilled, or deposited, either intentionally or accidentally,  
10 on any impervious surface shall be immediately and completely removed to the greatest  
11 extent practicable. Fertilizer released on an impervious surface must be immediately  
12 contained and either legally applied to turf or any other legal site, or returned to the original  
13 or other appropriate container. In no case shall fertilizer be washed, swept, or blown off  
14 impervious surfaces into stormwater drains, ditches, conveyances, or water bodies.

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16 **Sec. 10-14.107. Fertilizer free zones.**

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

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2 **Sec. 10-14.108. Low maintenance zones.**

3 A voluntary ~~ten six~~ (106) foot low maintenance zone is strongly recommended, but  
4 not mandated, from any pond, stream, water course, lake, wetland or from the top of a  
5 retaining wall associated with any of these features. A properly permitted swale/berm  
6 system is recommended for installation at the landward edge of this low maintenance zone  
7 to capture and filter runoff. No mowed or cut vegetative material should be deposited or  
8 left remaining in this zone or deposited in the water. Care should be taken to prevent the  
9 over-spray of aquatic weed products in this zone. There are ~~If~~ more stringent County  
10 protective buffer regulations that apply to these protected features. ~~, this provision does not~~  
11 ~~relieve the requirement to adhere to the more stringent regulations.~~ See Article IV of  
12 Chapter 10 of the Leon County Land Development Code.

13

14 **Sec. 10-14.109. Mode of application.**

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

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20 **Sec. 10-14.110. Exemptions.**

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

22 (a) Bona fide farm operations as defined in the Florida Right to Farm Act, Section  
23 823.14, F.S., provided that fertilizers are applied in accordance with the appropriate Best

1 Management Practices Manual adopted by the Florida Department of Agriculture and  
2 Consumer Services, Office of Agricultural Water Policy for the crop in question.

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

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

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

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

24 (c) Homeowners, and any other applicators not otherwise required to be certified  
25 are encouraged to follow the requirements of this Article as well as the recommendations

1 of the University of Florida IFAS *Florida Yards and Neighborhoods* program when  
2 applying fertilizers.

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

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16 **Sec. 10-14.112. Enforcement**

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

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- (a) First violation. Written notification and education.
- (b) Second violation. Fifty dollars (\$50) for residential applicators applying fertilizer to their own property and one hundred dollars (\$100) for commercial or institutional fertilizer applicators.
- (c) Third violation(s). One hundred dollars (\$100) for residential applicators applying fertilizer to their own property and two hundred dollars (\$200) for commercial or institutional fertilizer applicators.
- (d) Fourth and subsequent violation(s). A minimum of one hundred dollars (\$100) for residential applicators applying fertilizer to their own property and a minimum of two hundred dollars (\$200) for commercial or institutional fertilizer applicators, not to exceed one thousand dollars (\$1,000).
- (e) Any applicator that violates the provisions of this Article may be responsible for the County's costs of prosecution of any violation, including any costs to remedy or clean up any environmental condition caused by an act, which constitutes a violation of this Article:

**Sec. 10-14.113. Variances**

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

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

1 (a) Whether, as a result of soil or tissue content at the point of the proposed  
2 application or for other geographical, environmental or geological reasons or other  
3 circumstances, such person should not be required to adhere to the strict provisions of this  
4 Article; and

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

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

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

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

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

- 19 a. The applicant satisfactorily demonstrates that all practical alternatives have  
20 been evaluated, and the soil or tissue content at the point of the proposed application is  
21 such that the provisions of the fertilizer regulations create a hardship for the applicant; or
- 22 b. The applicant satisfactorily demonstrates that all practical alternatives have  
23 been evaluated, and due to unique geographical, environmental or geological reasons or

1 other unique circumstances, the applicant should not be required to adhere to the strict  
2 provisions of the fertilizer regulations; and

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

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

9

10 **SECTION 6. APPLICABILITY.**

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

15

16 **SECTION 7. INCLUSION INTO THE CODE OF ORDINANCES.**

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

22

23 **SECTION 9. SEVERABILITY.**

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

27

28 **SECTION 9. EFFECTIVE DATE.**

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30 This ordinance shall have effect upon becoming law.

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33

34 DONE, ADOPTED AND PASSED by the Board of County Commissioners of Leon  
35 County, Florida, this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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LEON COUNTY, FLORIDA

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By: \_\_\_\_\_  
Rick Minor, Chairman  
Board of County Commissioners

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

By: \_\_\_\_\_

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

By: \_\_\_\_\_

DRAFT

## MEMORANDUM

**TO:** Nawfal R. Ezzagaghi, P.E.  
Deputy Director, Development Services Division  
Environmental Services/DSEM

**THROUGH:** Artie White, Administrator  
Comprehensive Planning  
Tallahassee-Leon County Planning Department

**FROM:** Stephen Hodges, Senior Planner, Tallahassee-Leon County Planning Department

**DATE:** February 4, 2021

**SUBJECT:** Consistency Review: Proposed Ordinance to Amend Article XIV of Chapter 10, the Land Development Code, Entitled "Fertilizer Use"

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The Tallahassee – Leon County Planning Department was requested by Development Support and Environmental Management (DSEM) to review for consistency with the Comprehensive Plan a proposed Ordinance revising Article XIV of Chapter 10 of the Leon County Land Development Code (LDC) as prepared by DSEM)

The proposed changes to this chapter of the LDC include a complete repeal and replacement of Section 10-8 of Chapter 10, as well as amendments to several floodplain related definitions found in Section 10-1.101 of Article I, In General. This code amendment is intended to be a migration to the State Model Ordinance with the addition of new higher regulatory standards, many of which are current County practices, and modifications to some of the currently included higher standards. In addition, as directed by the Board of County Commissioners, the proposed Ordinance includes an amendment to LDC, Section 10-4.303 (Environmental Management Act, Stormwater management design standards) which will add a paragraph requiring stormwater management facility testing within the Lake Protection Node (LPN) zoning district.

As part of the requested review, Planning staff reviewed the proposed Ordinance in relation to all relevant Comprehensive Plan policies. For those items in the Ordinance that are not addressed at the policy level in the Plan, direction previously provided to the Department from the Planning Commission Attorney has been to find an item consistent with the Comprehensive Plan if the Plan does not address the issue.

### Consistency Review

At a Board of County Commissioner May 12, 2009 workshop regarding on-site sewage disposal systems, the Board directed staff to draft a Fertilizer Ordinance to implement Policy 4.2.5 of the Conservation Element of the Comprehensive Plan, which requires the County to "restrict fertilizer content and application rates within the Primary Springs Protection Zone (PSPZ)" for Wakulla Springs. In addition, the State of Florida mandates that each county and municipal government located within a watershed of a water body or water segment that is listed as impaired by nutrients shall, at a minimum, adopt the

*Proposed Ordinance to Amend Article XIV of Chapter 10, the Land Development Code, Entitled “Fertilizer Use”*

*February 4, 2021*

*Page 2 of 2*

Florida Department of Environmental Protection’s Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes. Subsequently, at the October 13, 2009 Public Hearing, the Board adopted a Fertilizer Ordinance consistent with the State’s Model that applies to the unincorporated area of the County.

There have been no changes to the Ordinance since its adoption. The Fertilizer Ordinance regulates the proper use of fertilizers by any fertilizer applicator within the unincorporated area of the County, provides maximum fertilizer application rates, provides fertilizer free zones and low maintenance zones, requires proper training for the commercial and institutional fertilizer applicators, and provides for certification of commercial and institutional fertilizer applicators.

The proposed Ordinance includes updates to ensure consistency with the updated State of Florida Model Fertilizer Ordinance, including definitions and references, application rates and applicator certification expiration. The proposed Ordinance was unanimously approved by the Leon County Science Advisory Committee, the Leon County Water Resources Committee, and the Leon County Advisory Committee on Quality Growth.

Based on staff’s review of the proposed Ordinance and the Comprehensive Plan, the proposed Ordinance meets the intent of the following policies in the Comprehensive Plan:

- Subsection 5 of Policy 4.2.5:5 [C] in the Conservation element requires the restriction of fertilizer content and application rates within the PSPZ.
- Subsection 3 in the Special Conditions part of Policy 2.2.18: [L] Lake Protection in the Land Use Element requires a specific volume control based stormwater treatment standard for all development and redevelopment within the Lake Protection land use category.

Conclusions

Planning staff finds the proposed ordinance consistent with the Comprehensive Plan based on the policy language contained in the Plan, including the above referenced policies.

## Notice of Public Hearings

**This Tallahassee-Leon County Planning Commission Meetings may be held remotely.**  
Please continue to check our website at [Talgov.com/PCAgenda.aspx](http://Talgov.com/PCAgenda.aspx) for further information.

The proposed ordinance listed below will be considered at the following public meetings:

1. Tallahassee-Leon County Planning Commission Meeting on **March 2, 2021 at 6:00 pm**, Smith-Williams Service Center, 2295 Pasco Street
2. City Commission Meeting on **April 21, 2021 at 5:00 pm**, City Commission Chambers, 2nd Floor, City Hall, 300 South Adams Street

### **CREATIVE MINDS SCHOOL OF ARTS 2344 LAKE BRADFORD ROAD ORDINANCE NO. 21-Z-07**

AN ORDINANCE OF THE CITY OF TALLAHASSEE, FLORIDA DESIGNATING AND INCLUDING ADDITIONAL TERRITORY AS AND IN SINGLE FAMILY DETACHED, ATTACHED, AND TWO-FAMILY RESIDENTIAL (R-3) ON THE OFFICIAL ZONING MAP OF THE CITY OF TALLAHASSEE ADOPTED AND ESTABLISHED BY THE CITY COMMISSION; PROVIDING FOR CONFLICTS AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

### **DEBBIE LIGHTSEY NATURE PARK REZONING ORDINANCE NO. 21-Z-08**

AN ORDINANCE OF THE CITY OF TALLAHASSEE, FLORIDA DESIGNATING AND INCLUDING ADDITIONAL TERRITORY AS AND IN OPEN SPACE (OS) ON THE OFFICIAL ZONING MAP OF THE CITY OF TALLAHASSEE ADOPTED AND ESTABLISHED BY THE CITY COMMISSION; PROVIDING FOR CONFLICTS AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

### **822 S. ML KING JR. BOULEVARD REZONING ORDINANCE NO. 21-Z-03**

AN ORDINANCE OF THE CITY OF TALLAHASSEE, FLORIDA AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF TALLAHASSEE ADOPTED AND ESTABLISHED BY THE CITY COMMISSION; CHANGING THE ZONING CLASSIFICATION FROM ALL SAINTS NEIGHBORHOOD A (ASN-A) WITH HISTORIC PRESERVATION OVERLAY (HPO) TO ALL SAINTS NEIGHBORHOOD A (ASN-A); AND REMOVING A STRUCTURE FROM THE LOCAL REGISTER OF HISTORIC PLACES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

### **ENCLAVE MIXED USE REZONING ORDINANCE NO. 21-Z-09**

AN ORDINANCE OF THE CITY OF TALLAHASSEE, FLORIDA DESIGNATING AND INCLUDING ADDITIONAL TERRITORY AS AND IN UNIVERSITY URBAN VILLAGE (UV) ON THE OFFICIAL ZONING MAP OF THE CITY OF TALLAHASSEE ADOPTED AND ESTABLISHED BY THE CITY COMMISSION; PROVIDING FOR CONFLICTS AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

### **LAKE BRADFORD ROAD ORDINANCE NO. 21-Z-10**

AN ORDINANCE OF THE CITY OF TALLAHASSEE, FLORIDA DESIGNATING AND INCLUDING ADDITIONAL TERRITORY AS AND IN CENTRAL URBAN-45 (CU-45) ON THE OFFICIAL ZONING MAP OF THE CITY OF TALLAHASSEE ADOPTED AND ESTABLISHED BY THE CITY COMMISSION; PROVIDING FOR CONFLICTS AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Notice is hereby given that Leon County will consider at the public hearing set forth below enactment of the proposed ordinance as follows:

### **ORDINANCE NO. 21-\_\_\_\_\_**

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA,

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

Due to ongoing public health concerns, there will be three options for sharing public comment.

- In-person at the meetings; or
- Written via online submission at [beth.perrine@talgov.com](mailto:beth.perrine@talgov.com). Public comment can be submitted online until 9 p.m. on Monday, March 1. Comments submitted after this time (up to the time of the public hearings) will be accepted and included in the official record of the meetings; or
- Virtually via an online platform during the meetings. Citizens wishing to provide public comments virtually during the meetings must register before 9 p.m. on Monday, March 1 at [Talgov.com/PCAgenda.aspx](http://Talgov.com/PCAgenda.aspx).

Face coverings are required in indoor public spaces per action of the Leon County Commission.

The Planning Commission will review this application at the public hearing listed above. Persons with standing may file a petition for quasi-judicial proceedings within 15 days (or 30 days for a decision on a Type C application) from the date the decisions were rendered (City); or within fifteen (15) calendar days of the date of publication of notice of the Planning Commission Public Hearing on the application in the Tallahassee Democrat (County); in accordance with the Bylaws of the Planning Commission and the City of Tallahassee and Leon County Land Development Codes. Copies of the Bylaws and or further information are available from the Planning Department at the Planning Department, 435 North Macomb Street, Tallahassee, FL, (850) 891-6400.

**NOTICE:** You are hereby notified in accordance with Chapter 286.0105, Florida Statutes, should you decide to appeal any decision made by the Commissions or take exception to any findings of fact with respect to any matter considered at the hearings referenced to above, you may need to ensure that verbatim record of the proceedings is made. Such a record shall include the testimony and evidence upon which the appeal is based. Planning Commission will review these applications at the public hearing listed above. Persons with standing may file a petition for quasi-judicial proceedings within 15 days from the date the decisions is rendered in accordance with the Bylaws of the Planning Commission and the City of Tallahassee Land Development Code. Copies of the Bylaws and or further information are available from the Planning Department located at 435 North Macomb Street, Tallahassee, FL, (850) 891-6400.

### **LOCAL PLANNING AGENCY BRIEFING March 2, 2021 at 6:00 pm**

The Local Planning Agency (LPA) may receive a briefing from staff regarding the Comprehensive Plan Amendments and/or approval of meeting minutes, as appropriate.

For more information on these projects please go to [www.talgov.com/planning](http://www.talgov.com/planning) (see public notices tab).

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