



**CITY OF BELLE ISLE, FLORIDA
CITY COUNCIL AGENDA ITEM COVER SHEET**

Meeting Date: June 5, 2018

To: Honorable Mayor and City Council Members

From: B. Francis, City Manager

Subject: Fertilizer Ordinance

Background: A requirement for the City's Municipal Separate Storm Sewer (MS4) Program and MS4 permit is that the City adopt an ordinance regulating the proper use and application of fertilizer, training and certification of commercial applicators, and periods of restricted use. Many municipalities in Orange County have adopted the County's ordinance which was updated and adopted last year. FDEP also recommends adoption of this ordinance.

At the May 15, 2018 meeting Council directed that an ordinance be drafted based on the Orange County Ordinance.

Staff Recommendation: Read Ordinance 18-06 for the first time by title only

Suggested Motion: I move that we read Ordinance 18-06 for the first time by title only

Alternatives: Do not adopt the County ordinance and direct the City Manager to develop another ordinance.

Fiscal Impact: None

Attachments: Ordinance 18-06

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ORDINANCE NO. 18-06

AN ORDINANCE OF THE CITY OF BELLE ISLE, FLORIDA, AMENDING THE CITY CODE ENACTING A FERTILIZER MANAGEMENT ORDINANCE REGULATING THE APPLICATION OF FERTILIZER TO LAWNS AND TURF IN THE CITY OF BELLE ISLE; PROVIDING FOR DEFINITIONS; PROVIDING FOR SEASONAL RESTRICTIONS ON FERTILIZER APPLICATION; PROVIDING RESTRICTIONS FOR FERTILIZER CONSTITUENTS PHOSPHORUS AND NITROGEN; PROVIDING FOR RESTRICTIONS IN RATES OF FERTILIZER APPLICATION; PROVIDING FOR TRAINING REQUIREMENTS FOR COMMERCIAL APPLICATORS OF FERTILIZER; PROVIDING FOR EXEMPTIONS; PROVIDING FOR VARIANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR LIBERAL CONSTRUCTION; PROVIDING FOR INCLUSION INTO CODE; AND PROVIDING FOR CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, surface water runoff and baseflow runoff leaves residential neighborhoods, commercial centers, industrial areas, and other lands of the City of Belle Isle and enters into natural and artificial stormwater and drainage conveyance systems and natural water bodies in the City of Belle Isle; and

WHEREAS, phosphorus and nitrogen - the primary nutrients associated with the degradation of groundwater and surface water - are commonly the primary components of fertilizer for lawn and turf application; and

1 WHEREAS, leaching and runoff of nutrients from improper or excess fertilization practices
2 contributes to nitrogen and phosphorus loading in the City of Belle Isle's stormwater conveyance
3 systems, groundwater and natural water bodies and thus to the overgrowth of algae and
4 vegetation in these waterways, groundwater and water bodies; and
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6 WHEREAS, the City of Belle Isle's natural and artificial stormwater and drainage conveyance
7 systems regulate the flow of stormwater preventing flooding and undesired accumulations of water;
8 and
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10 WHEREAS, the overgrowth of algae and vegetation in stormwater and drainage conveyance systems
11 hinders flood prevention and proper stormwater conveyance; and
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13 WHEREAS, the quality of streams, lakes, and wetlands is critical to environmental, economic,
14 and recreational prosperity and to the health, safety, and welfare of the residents of the City of
15 Belle Isle; and
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17 WHEREAS, recent algae blooms and accelerated growth of aquatic weeds in the City of Belle
18 Isle's water bodies have elevated concerns about water quality and eutrophication; and
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20 WHEREAS, the amount of fertilizer applied to a given landscape and the method of application
21 have the potential to create nutrient pollution and adversely affect the quality of the waterways and
22 water bodies in the City of Belle Isle; and
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24 WHEREAS, the amount of fertilizer applied should be the minimum necessary for lawns and turf to
25 meet initial vegetative establishment and basic growth needs; and

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3 WHEREAS, it is generally recognized that Florida soils naturally have a suitable phosphorus
4 content for most vegetative needs and that phosphorus is therefore rarely needed to create or
5 maintain a vibrant landscape; and

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7 WHEREAS, it has been recognized that the use of slow release nitrogen sources is more efficiently
8 used by plants and less likely to leach out or wash away in stormwater runoff; and

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10 WHEREAS, this ordinance is part of a multi-pronged effort by the City of Belle Isle to reduce
11 nutrient leaching and runoff through improved stormwater management, water conservation
12 efforts, conversion of septic systems to central sewage treatment, public education, and updated
13 development standards as set forth in the City of Belle Isle Code.

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15 WHEREAS, the City of Belle Isle, as part of a comprehensive program to address nonpoint sources of
16 nutrient pollution which is science-based, and economically and technically feasible, this ordinance
17 contains additional or more stringent standards than those in the Florida Department of
18 Environmental Protection's Model Ordinance for Florida-Friendly Fertilizer Use on Urban
19 Landscapes (January 2009) which are necessary to adequately address urban fertilizer contributions
20 to nonpoint source nutrient loading to water bodies; and

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22 BE IT ORDAINED BY THE CITY OF BELLE ISLE CITY COUNCIL:

23 Section I. Enactment of a New Fertilizer Management Ordinance. A new Fertilizer Management
24 Ordinance, to be codified in Chapter 10-Environmental, Article IV-STORM WATER
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MANAGEMENT, DIVISION 2, of the City of Belle Isle Code, Sections 10-98 through 10-110, inclusive, is enacted to read as follows:

ARTICLE IV – STORM WATER MANAGEMENT, DIVISION 2, FERTILIZER MANAGEMENT ORDINANCE

Section 10-98. Findings and Purpose.

The City of Belle Isle has determined that as a result of impairment of the City of Belle Isle's surface waters, groundwater, and springs caused by excessive nutrients due to the improper use of fertilizers on land has adverse effects on waterways, water bodies and groundwater. This ordinance regulates the proper use and application of fertilizer, training requirements, and restricted application periods in the City.

Section 10-99. Definitions.

- a) Apply or application means the physical deposit, placement, or release of fertilizer upon soil, lawns, turf or landscape plants.
- b) Applicator means any person who applies, or causes the application of, fertilizer.
- c) Article means Chapter 10, Article IV, Division 2, of the City of Belle Isle Code of Ordinances, as enacted, unless otherwise specified.
- d) Best Management practices (BMPs) means the practice or combination of practices based on research, field testing and expert review, determined by the Florida Department of Environmental Protection or comparable agency to be the most effective and practicable, including economic and technological considerations, for improving water quality, conserving water supplies and protecting natural resources.

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- e) Commercial applicator means any person who applies fertilizer in exchange for money, goods, services or other valuable consideration and who is required by law, ordinance, or regulation to pay the City of Belle Isle local business tax.
 - f) Fertilizer means any substance or mixture of substances, excluding pesticides, organic composts, and fertilizer derived from bio solids, that contains one or more recognized plant nutrients and promotes plant growth, or controls soil enrichment, or provides other soil enrichment, or provides other corrective measures to the soil.
 - g) Guaranteed analysis means the percentage of plant nutrients or measures of neutralizing capability claimed to be present in a fertilizer.
 - h) Groundcover means plants used in mass as alternative to turf, sod or lawn and/or to create variety in landscape; usually not having a mature height over two (2) feet tall.
 - i) Landscape plants means any shrub, tree or groundcover, exceeding 2 feet in height, excluding turf, sod, lawn and vegetable gardens.
 - j) Person means any person, natural or artificial, individual, firm, association, organization, partnership, business trust, corporation, company, agent, employee, or any other legal entity, the United States of America, and the state of Florida and all political subdivisions, regions, districts, municipalities, and public agencies.
 - k) Restricted season means the period from June 1st through September 30th.
 - l) Slow release means nitrogen in a form which delays its availability for plant uptake and use for an extended period after application, or which extends its availability to the plant longer than a readily available, rapid or quick-release product. This definition includes the terms "controlled release," "timed release," "slowly available," and "water insoluble."
 - m) Turf, sod, or lawn means a mat layer of monocotyledonous plants, including but not limited to, Bahia, Bermuda, Centipede, Paspalum, St. Augustine or Zoysia.

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3 Section 10-100. Applicability.

- 4 a) This ordinance shall be applicable throughout all of the City of Belle Isle, except in areas
5 that have minimum standards for the regulation of fertilizer application that are no less strict
6 than those in this article.
- 7 b) Any business that sells fertilizer shall post a notice provided by the City stating the use of
8 lawn, turf, sod, groundcover and landscape fertilizers in the City of Belle Isle/Orange County is
9 restricted in accordance with this article.

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11 Section 10-101. Weather and Seasonal Restrictions.

- 12 a) No fertilizer containing nitrogen or phosphorus shall be applied to turf, sod, lawn,
13 groundcover or landscape plants during a period for which the National Weather Service
14 has issued any of the following advisories for any portion of the City of Belle Isle: a severe
15 thunderstorm warning or watch, flood warning or watch, tropical storm warning or watch,
16 hurricane warning or watch.
- 17 b) No person, except applicators certified pursuant to Section 10-107 herein, shall apply
18 fertilizer containing nitrogen or phosphorus to turf, sod, lawn, groundcover or landscape
19 plants during the Restricted Season.

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21 Section 10-102. Fertilizer Content; Application Rate.

- 22 a) No fertilizer shall be used unless labeled in accordance with state law.
- 23 b) No fertilizer containing phosphorus shall be applied to turf, sod, lawn, groundcover or
24 landscape plants. Provided, however, where phosphorus deficiency has been demonstrated in
25 the soil by a soil analysis test performed by a laboratory, using University of Florida's

Institute of Food and Agricultural Sciences (“UF/IFAS”) approved methodology phosphorus may then be applied at a rate no greater than one-quarter of one pound (0.25 lb.) of phosphorus per 1,000 square feet per application, not to exceed one-half pound (0.5 lb.) of phosphorus per 1,000 square feet per year. Any person who obtains such a soil analysis test showing a phosphorus deficiency may apply phosphorus and shall provide the test results to the City of Belle Isle, Attention: City Manager, within 30 days of receipt of results.

c) No fertilizer containing nitrogen shall be applied to turf, sod, lawn, groundcover or landscape plants unless at least fifty (50) percent of its nitrogen content is slow release as indicated on the Guaranteed Analysis label, with no more than one pound (1 lb.) total nitrogen per 1,000 square feet of area per application. This requirement shall change to at least sixty-five (65) percent slow release of the product when readily available on the local commercial market by July 1, 2020.

d) Notwithstanding subsection 10-101 (c), commercial applicators may apply fertilizer at a rate that does not exceed one-half of one pound (0.5 lb.) of readily available nitrogen per 1,000 square feet of area, provided, however, that any application that exceeds one-half of one pound (0.5 lb.) of nitrogen shall conform to subsection 10-101 (c).

e) Notwithstanding any other provision of this section 10-101, fertilizer applied to turf, sod, lawn, groundcover or landscape plants must follow the guidelines found in Rule 5E-1.003, F.A.C. as it may be amended.

Section 10-103. Fertilizer-Free Zones.

a) No fertilizer shall be applied within ten (15) fifteen feet of any wetland, lake, pond, stream, water body, water course, canal or other water body.

- 1 b) No fertilizer shall be deposited, washed, swept, or blown off - intentionally or inadvertently
2 - onto any impervious surface, public right-of-way, public property, stormwater drain, ditch,
3 conveyance, or water body. Any fertilizer applied, spilled, released or deposited, either
4 intentionally or inadvertently on any impervious surface, public right-of-way, public property,
5 stormwater drain, ditch, conveyance, or water body shall be immediately and completely
6 removed to the greatest extent practicable. Fertilizer on an impervious surface must be
7 immediately contained and either legally applied to turf or landscape plants or any other
8 legal site, or returned to the original or other appropriate container.
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10 c) A low-maintenance zone is strongly recommended for all areas within ten (10) feet of
11 the normal high water elevation of any lake, pond, stream, water body, water course or canal,
12 or any wetland. Low-maintenance zones should be planted and managed in such a way as to
13 minimize the need for watering, mowing, and other active maintenance. No mowed or cut
14 vegetative material may be deposited or left remaining in this zone or deposited in the water.
15 Care should be taken to prevent overspray of aquatic weed control products in this zone.

16 Section 10-104. Mode of Application.

17 Broadcast spreaders applying fertilizers must be equipped with deflector shields positioned to deflect
18 fertilizer from all impervious surfaces, rights-of-way, stormwater drains, ditches, conveyances, and
19 water bodies.

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21 Section 10-105. Grass Clippings and Vegetative Material/Debris.

22 Grass clippings and/or vegetative material/debris shall not be deposited, washed, swept, or
23 blown off - intentionally or inadvertently - onto any impervious surface, public right-of-way,
24 stormwater drain, ditch, conveyance, or water body.
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3 Section 10-106. Exemptions; exceptions.

- 4 a) This article shall not apply to any bona fide farm operation that the City of Belle Isle is
5 without authority to regulate with regard to fertilizer application pursuant to the Florida
6 Right to Farm Act, Sec. 823.14, et seq., Florida Statutes (2018), or other applicable state
7 law.
- 8 b) This article shall not apply to sports turf areas at parks and athletic fields.
- 9 c) This article shall not limit or prevent the City of Belle Isle from the City's care, maintenance,
10 fertilization, mowing and upkeep of City property, public rights of way and other public
11 property.

12 Section 10-107. Commercial Training Requirements; Proof of Compliance.

- 13 a) No commercial applicator shall cause fertilizer to be applied, except at his or her own
14 residence, without a valid limited certification for urban landscape commercial fertilizer
15 application from the Florida Department of Agriculture and Consumer Services, as specified in
16 section 10-106(c).
- 17 b) Each commercial applicator shall ensure that each applicator he or she employs has a valid
18 limited certification for urban landscape commercial fertilizer application from the Florida
19 Department of Agriculture and Consumer Services prior to the application of fertilizer.
- 20 c) Possession of a valid limited certification for urban landscape commercial fertilizer application
21 from the Florida Department of Agriculture and Consumer Services or the Florida
22 Department of Environmental Protection's Florida Friendly Best Management Practices for
23 Protection of Water Resources by the Green Industries training by UF/IFAS shall suffice as
24 evidence of completion of a County-approved best management practices training program.
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- 1 d) Certified applicators must show proof of training/certification on all vehicles used during
2 applications.

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4 Section 10-108. Commercial Applicators; Business Tax Certificate.

5 Prior to paying a City local business tax for a business that provides landscape services, each
6 commercial applicator provide proof of successful completion from a County or other FDEP or
7 comparable agency approved best management practices training program within the previous three
8 years. Possession of a valid limited certification for urban landscape commercial fertilizer
9 application from the Florida Department of Agriculture and Consumer Services or the Florida
10 Department of Environmental Protection of Water Friendly Best Management Practices for Protection
11 of Water Resources by the Green Industries training by UF/IFAS shall suffice as evidence of
12 completion of a County or other FDEP or comparable agency approved best management practices
13 training program.

14 Section 10-109. Variances.

- 15 a) All requests for a variance(s) from the requirements of this article shall be made in writing
16 to the City Clerk Attn: Planning & Zoning Board of the City of Belle Isle. The Planning &
17 Zoning Board may require the applicant for a variance to provide such information
18 as necessary to effectuate the purpose of this article. The Planning & Zoning Board may
19 approve, approve with conditions or deny requests for variances, as set forth in section
20 42-64 of the City's Land Development Code. In addition to the criteria in Section 42-64, a
21 variance may not be approved unless strict application of the City of Belle Isle Fertilizer
22 Management Ordinance would create unreasonable results or consequences and provided that
23 the applicant demonstrates with particularity that compliance with this article will result in a

1 substantial economic, health or other hardship on the applicant requesting the variance or
2 those served by the applicant.

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4 b) Any person aggrieved by the decision of the Planning & Zoning Board may appeal
5 pursuant to the provisions of Section 42-71 of the City's Land Development Code.

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7 Section 10-110. Enforceability and Penalty

- 8 a) It shall be unlawful for any person to violate any provision of this article or any provision of
9 any resolution enacted pursuant to the authority of this article. Every code enforcement
10 officer is authorized to enforce the provisions of this article. Any person who violates any
11 provision of this article or any provision of any resolution enacted pursuant to the authority
12 of this article, shall be subject to the following penalties:

13 (i) First violation: written notice

14 (ii) Second violation: Fine of fifty dollars (\$50.00) except for commercial
15 applicators the fine shall be five hundred dollars (\$500.00).

16 (iii) Third and subsequent violations: Fine of one hundred dollars (\$100.00) except for
17 commercial applicators the fine shall be seven hundred fifty dollars (\$750.00).

- 18 b) In addition to the enforcement provisions provided, the City may avail itself of any other
19 legal or equitable remedy available to it including, without limitation, injunctive relief, in the
20 enforcement of any provision of this article or any provision of any resolution enacted
21 pursuant to the authority of this article. Any person violating this article shall be held
22 liable for all costs incurred by the City in connection with enforcing this article, or any
23 resolution enacted pursuant to the authority of this article including, but not limited to,
24 attorney's fees.

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2 **Section 2. Severability and Conflicts.**

3 If any section, subsection, sentence, clause, phrase, word or provision of this Ordinance is for any
4 reason held or declared to be unconstitutional, inoperative, or void, such holding of invalidity shall
5 not affect the remaining portions of this Ordinance and it shall be construed to have been the
6 intent to adopt this article without such unconstitutional, invalid, or inoperative part therein; and the
7 remainder of this article, after the exclusion of such part or parts, shall be deemed to be held valid as if
8 such part or parts had not been included herein. To the extent any provision in this Ordinance
9 conflicts with any Code provision, this Ordinance shall control to the extent of the conflict.

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11 **Section 3. Liberal Construction.**

12 The provisions of this Ordinance shall be liberally construed to effectuate its purposes.

13 **Section 4. Codification.**

14 This Ordinance shall be made a part of the City of Belle Isle Code. Any section, paragraph number,
15 letter and/or heading may be changed or modified as necessary to effectuate the foregoing.

16 Grammatical, typographical and similar like errors may be corrected, and additions, alterations, and
17 omissions not affecting the construction or meaning of this ordinance or the City Code may be freely
18 made.

19 **Section 5. Effective Date.**

20 This Ordinance shall become effective immediately upon adoption by the City Council of the City of
21 Belle Isle, Florida.

22 First reading on _____, 2018.

23 Second Reading and Adoption this _____ day of _____, 2018.
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25

	YES	NO	ABSENT
Ed Gold			
Anthony Carugno			
Jeremy Weinsier			
Mike Sims			
Harvey Readey			
Jim Partin			
Sue Nielsen			

ATTEST: _____
Yolanda Quiceno, CMC-City Clerk Lydia Pisano, Mayor

Approved as to form and legality
A. Kurt Ardaman, City Attorney