

# City of Boca Raton



Incorporated 1925

## ORDINANCE

5469

1  
2 AN ORDINANCE OF THE CITY OF BOCA RATON  
3 CREATING ARTICLE X, CHAPTER 17, CODE OF  
4 ORDINANCES; ESTABLISHING FERTILIZER USE  
5 REGULATIONS PURSUANT TO THE REQUIREMENTS OF  
6 FLORIDA STATUTES; PROVIDING FOR SEVERABILITY;  
7 PROVIDING FOR REPEALER; PROVIDING FOR  
8 CODIFICATION; PROVIDING AN EFFECTIVE DATE  
9

10 WHEREAS, pursuant to Section 303(d) of the federal Clean Water Act and the  
11 resulting Florida Impaired Waters Rule (Chapter 62-303, Florida Administrative Code), the  
12 Florida Department of Environmental Protection (FDEP) has classified specific water bodies  
13 in Palm Beach County as "impaired" as a result of the presence of excessive nutrients;  
14 and

15 WHEREAS, Florida Statutes, Section 403.9337, requires local governments located  
16 within the watershed of a water body or water segment that is listed as impaired by nutrients  
17 pursuant to Florida Statute, Section 403.067, to adopt an ordinance for Florida-Friendly™ fertilizer  
18 use on urban landscapes; and

1           WHEREAS, the FDEP, March 2, 2011, issued its Palm Beach County Municipal  
2 Separate Storm Sewer System Permit No. FLS 000018-003 (hereinafter referred to as the “MS4  
3 Permit”) to forty-one (41) governmental entities, including the City of Boca Raton; and

4           WHEREAS, the MS4 permit requires local governments within the watershed of a  
5 nutrient impaired water body to adopt FDEP’s Model Ordinance for Florida Friendly Fertilizer Use  
6 on Urban Landscapes or an Ordinance that includes all the requirements set forth in the Model  
7 Ordinance; and

8           WHEREAS, surface water runoff and base flow runoff leaves residential  
9 neighborhoods, commercial centers, industrial areas, and other lands of Palm Beach County and  
10 enters into natural and artificial stormwater and drainage conveyances and natural water bodies  
11 in Palm Beach County; and

12           WHEREAS, phosphorus and nitrogen, the primary nutrients associated with the  
13 degradation of surface water, are commonly the primary components of fertilizer for turf and  
14 landscape application; and

15           WHEREAS, the quality of streams, lakes, and wetlands is important to environmental,  
16 economic, and recreational prosperity and to the health, safety, and welfare of the residents of  
17 Palm Beach County; and

18           WHEREAS, algae blooms and accelerated growth of aquatic weeds in Palm Beach  
19 County’s water bodies have heightened community concerns about water quality and  
20 eutrophication of surrounding waters; and

21           WHEREAS, it is generally recognized that Eastern Palm Beach County soils naturally  
22 have adequate phosphorus content for most vegetative needs and that additional phosphorus is  
23 therefore only occasionally needed to create or maintain a vibrant landscape; and

24           WHEREAS, it has been recognized that proper application of slow-release nitrogen  
25 sources is more efficiently used by plants and less likely to leach or runoff; and

1           WHEREAS, this Ordinance is part of a regulatory program to address nonpoint sources  
2 of nutrient pollution which is scientifically based, and economically and technically feasible; and

3           WHEREAS, this Ordinance complies with the MS4 Permit requirements for adoption of  
4 a local ordinance; and

5           WHEREAS, in the process of adoption of this Ordinance, the City has considered  
6 scientific information, including input from the Department of Environmental Protection, the  
7 Department of Agriculture and Consumer Services, and the University of Florida Institute of Food  
8 and Agricultural Sciences; now therefore

9  
10                           THE CITY OF BOCA RATON HEREBY ORDAINS:

11  
12           Section 1. Article X, Chapter 17, Code of Ordinances, is created to read:

13                           ARTICLE X. FERTILIZER USE AND REGULATIONS

14           Section 17-259. – Definitions.

15           The following words, terms and phrases, when used in this article, shall have the  
16 meanings ascribed to them in this section, except where the context clearly indicates a different  
17 meaning:

18           “Application or apply” shall mean the actual physical deposition of fertilizer to turf or  
19 landscape plants.

20           “Applicator” shall mean any person who applies fertilizer on turf and/or landscape plants  
21 in the City of Boca Raton.

22           “Approved test” shall mean a soil test from the University of Florida, government, or  
23 other commercial licensed laboratory that regularly performs soil testing and recommendations.

24           “Best management practices (BMPs)” shall mean turf and landscape practices or  
25 combination of practices based on research, field-testing, and expert review, determined to be  
26 the most effective and practical site-specific means, including economic and technological

1 considerations, for improving water quality, conserving water supplies and protecting natural  
2 resources.

3 "Code enforcement officer, official, or inspector" shall mean any employee or agent of  
4 the City of Boca Raton designated by the City Manager to enforce codes and ordinances enacted  
5 by the City of Boca Raton.

6 "Commercial fertilizer applicator" except as provided in Section 482.1562(9), Florida  
7 Statutes, shall mean any person who applies fertilizer for payment or other consideration to  
8 property not owned by the person or firm applying the fertilizer, or the employer of the applicators.

9 "Fertilizing or fertilization" shall mean the act of applying fertilizer to turf, specialized  
10 turf, or landscape plants.

11 "Fertilizer" shall mean any substance or mixture of substances that contains one (1) or  
12 more recognized plant nutrient(s) and promotes plant growth, controls soil acidity or alkalinity,  
13 provides other soil enrichment, or provides other corrective measures to the soil.

14 "Institutional applicator" shall mean any person, other than a private, noncommercial or  
15 a commercial applicator (unless such definitions also apply under the circumstances), that applies  
16 fertilizer for the purpose of maintaining turf and/or landscape plants. Institutional applicators shall  
17 include, but shall not be limited to, owners, managers, or employees of public lands, schools,  
18 parks, religious institutions, utilities, industrial or business sites, and any residential properties  
19 maintained in condominium and/or common ownership.

20 "Landscape plant" shall mean any native or non-native tree, shrub, or groundcover  
21 (excluding turf).

22 "Person" shall mean any natural person, business, corporation, limited liability  
23 company, partnership, limited partnership, association, club, organization, and/or any group of  
24 people acting as an organized entity.

25 "Prohibited application period" shall mean the time period during which a flood watch  
26 or warning, a tropical storm watch or warning, or a hurricane watch or warning is in effect for any

1 portion of the City of Boca Raton, issued by the National Weather Service, or if heavy rain (two  
2 (2) inches or more within a 24-hour period) is likely.

3 "Saturated soil" shall mean a soil in which the voids are filled with water. Saturation  
4 does not require flow. For the purposes of this division, soils shall be considered saturated if  
5 standing water is present or the pressure of a person standing on the soil causes the release of  
6 free water.

7 "Slow-release, controlled release, timed release, slowly available, or water insoluble  
8 nitrogen" shall mean nitrogen in a form which delays its availability for plant uptake and use after  
9 application, or which extends its availability to the plant longer than a reference rapid or quick  
10 release product.

11 "Turf, sod, or lawn" shall mean an area of grass-covered soil held together by the roots  
12 of the grass.

13 "Urban landscape" shall mean pervious areas on residential, commercial, industrial,  
14 institutional, highway rights-of-way, or other nonagricultural lands that are planted with turf or  
15 horticultural plants. For the purposes of this section, agriculture has the same meaning as  
16 provided in Section 570.02, Florida Statutes.

17 Section 17-260. - Legislative findings.

18 As a result of the Florida Department of Environmental Protection's determination that  
19 certain water bodies within Palm Beach County are impaired by excessive nutrient levels, the City  
20 Council of the City of Boca Raton finds that the best management practices contained in the most  
21 recent edition of the "Florida-Friendly Best Management Practices for Protection of Water  
22 Resources by the Green Industries", are required and are necessary to implement within the city  
23 as set forth herein.

24 Section 17-261. - Purpose and intent.

25 This division regulates the proper use of fertilizers by any applicator; requires proper  
26 training of commercial and institutional fertilizer applicators; establishes training and licensing

1 requirements; establishes a prohibited application period; and specifies allowable fertilizer  
2 application rates and methods, fertilizer-free zones, and exemptions. This division requires the  
3 use of best management practices to minimize negative environmental effects associated with  
4 excessive nutrients in our water bodies. These environmental effects have been observed in and  
5 on Palm Beach County's natural and constructed stormwater conveyances, rivers, creeks, canals,  
6 lakes, estuaries, and other water bodies. Collectively, these water bodies are an asset important  
7 to the environmental, recreational, cultural, and economic well-being of Palm Beach County  
8 residents and the health of the public. Overgrowth of algae and vegetation hinder the  
9 effectiveness of flood attenuation provided by natural and constructed stormwater conveyances.  
10 Regulation of nutrients, including both phosphorus and nitrogen contained in fertilizer, is  
11 anticipated to help improve and maintain water and habitat quality.

12 Section 17-262. - Applicability.

13 The regulations set forth herein shall be applicable to and shall regulate any and all  
14 applicators of fertilizer and areas of application of fertilizer to urban landscapes within the City of  
15 Boca Raton, unless such application is specifically exempted by Section 17-268. These  
16 regulations shall be prospective only and shall not impair any existing contracts.

17 Section 17-263. - Timing of fertilizer applications.

18 (a) No applicator shall apply fertilizers containing nitrogen and/or phosphorus to turf  
19 and/or landscape plants during the prohibited application period or to saturated soils.

20 (b) Fertilizer containing nitrogen and/or phosphorus shall not be applied before  
21 seeding or sodding a site, and shall not be applied for the first thirty (30) days after seeding,  
22 except when hydro-seeding for temporary or permanent erosion control in an emergency situation  
23 (wildfire, etc.), or in accordance with the stormwater pollution prevention plan for that site.

24 Section 17-264. - Fertilizer-free zones.

25 Fertilizer shall not be applied within ten (10) feet (or three (3) feet if a deflector shield  
26 or drop spreader is used) of any pond, stream, water body, lake, canal, or wetland (as defined by

1 the Florida Department of Environmental Protection in Chapter 62-340, Florida Administrative  
2 Code), or from the top of a seawall or lake bulkhead. Newly planted turf or landscape plants may  
3 be fertilized in this zone only for a sixty-day period beginning thirty (30) days after planting if  
4 needed to allow the plants to become well established. Caution shall be used to prevent direct  
5 deposition of nutrients into the water.

6 Section 17-265. - Fertilizer content and application rates.

7 (a) Fertilizers applied to turf within the City of Boca Raton shall be formulated and  
8 applied in accordance with requirements and directions provided by Rule 5E-1.003(2), Florida  
9 Administrative Code. Under Rule 5E-1.003(2), required application rate and frequency  
10 maximums, which vary by plant and turf types, are found on the labeled fertilizer bag or container.

11 (b) Nitrogen or phosphorus fertilizer shall not be applied to turf or landscape plants,  
12 except as provided in subsection (a) above for turf, or in the University of Florida/ Institute of Food  
13 and Agricultural Services (UF/IFAS) recommendations for landscape plants, vegetable gardens,  
14 and fruit trees and shrubs, unless a soil or tissue deficiency has been verified by an approved  
15 test.

16 (c) Fertilizer used for sports turf at golf courses shall be applied in accordance with  
17 the recommendations in "Best Management Practices for the Enhancement of Environmental  
18 Quality on Florida Golf Courses", published by the Florida Department of Environmental  
19 Protection, dated January 2007, as may be amended. Fertilizer used at park or athletic fields shall  
20 be applied in accordance with Rule 5E-1.003(2), Florida Administrative Code.

21 Section 17-266. - Fertilizer application practices.

22 (a) As required in section 17-264 of this division, spreader deflector shields shall be  
23 used when fertilizing via rotary (broadcast) spreaders. Deflectors must be positioned such that  
24 fertilizer granules are deflected away from all impervious surfaces, fertilizer-free zones, and water  
25 bodies, including wetlands. Any fertilizer applied, spilled, or deposited, either intentionally or

1 | accidentally, on any impervious surface shall be immediately and completely removed to the  
2 | greatest extent practicable.

3 |         (b) Fertilizer released on an impervious surface must be immediately contained and  
4 | either legally applied to turf or any other legal site, or returned to the original or other appropriate  
5 | container.

6 |         (c) In no case shall fertilizer be washed, swept, or blown off impervious surfaces into  
7 | stormwater drains, ditches, drainage conveyances, or water bodies.

8 |         (d) Property owners and managers are encouraged to use an integrated pest  
9 | management (IPM) strategy, as currently recommended by the University of Florida Cooperative  
10 | Extension Service publications, and to utilize the plant selection and landscape design standards  
11 | of the UF/IFAS Florida-Friendly Landscape Program.

12 |         Section 17-267. - Management of grass clippings and vegetative matter.

13 |         In no case shall grass clippings, vegetative material, and/or vegetative debris  
14 | intentionally be washed, swept, blown, or otherwise deposited onto or into stormwater drains,  
15 | drainage ditches or conveyances, water bodies, wetlands, sidewalks, or roadways. Any material  
16 | that is accidently so deposited shall be immediately removed to the maximum extent practicable  
17 | and disposed of in accordance with applicable codes and regulations.

18 |         Section 17-268. - Exemptions.

19 |         The provisions set forth hereinabove shall not apply to lands used for bona fide  
20 | scientific research, including, but not limited to, research on the effects of fertilizer use on urban  
21 | stormwater, water quality, agronomics, or horticulture.

22 |         Section 17-269. - Training.

23 |         (a) All commercial and institutional applicators of fertilizer within the City of Boca  
24 | Raton shall abide by and successfully complete the six-hour training program in the "Florida-  
25 | Friendly Best Management Practices for Protection of Water Resources by the Green Industries"  
26 | offered by the Florida Department of Environmental Protection through the University of



1 Florida/Palm Beach County Cooperative Extension Service "Florida-Friendly Landscapes"  
2 program or an approved equivalent program.

3 (b) Noncommercial and noninstitutional applicators not otherwise required to be  
4 certified, such as private citizens on their own residential property, are encouraged to follow the  
5 recommendations of the UF/IFAS "Florida-Friendly Landscape Program" and label instructions  
6 when applying fertilizers.

7 Section 17-270. - Licensing of commercial applicators.

8 (a) All businesses applying fertilizer to turf or landscape plants (including, but not  
9 limited to, residential lawns, golf courses, commercial properties, and multifamily and  
10 condominium properties) must ensure that the business owner or his/her designee holds the  
11 appropriate "Florida-Friendly Best Management Practices for Protection of Water Resources by  
12 the Green Industries" training certificate prior to the business owner obtaining a local business  
13 tax certificate. Owners for any category of occupation which may apply any fertilizer to turf and/or  
14 landscape plants shall provide proof of completion of the program to the City of Boca Raton. It is  
15 the responsibility of the business owner to maintain the "Florida-Friendly Best Management  
16 Practices for Protection of Water Resources by the Green Industries" certificate in order to receive  
17 his/her/its business tax receipt annually. Additionally, commercial applicators of fertilizer who are  
18 not required to obtain a business tax receipt from the City of Boca Raton shall be required to  
19 register with the city pursuant to Section 8-93 of the City Code of Ordinances.

20 (b) After December 31, 2018, all commercial applicators of fertilizer within the City of  
21 Boca Raton shall have and carry in their possession at all times when applying fertilizer evidence  
22 of certification by the Florida Department of Agriculture and Consumer Services as a commercial  
23 fertilizer applicator.

24 (c) All businesses applying fertilizer to turf and/or landscape plants (including, but not  
25 limited to, residential lawns, golf courses, commercial properties, and multifamily and  
26 condominium properties) must ensure that at least one (1) employee has an appropriate "Florida-

1 Friendly Best Management Practices for Protection of Water Resources by the Green Industries"  
2 training certificate prior to the business owner obtaining a local business tax certificate or prior to  
3 registering with the city pursuant to Section 8-93 of the City Code of Ordinances. Standard  
4 Business Tax Receipt (BTR) and/or standard transaction fees shall apply.

5 Section 17-271. - Enforcement.

6 (a) The provisions of this division shall be enforced by: (1) the City of Boca Raton  
7 code enforcement special magistrate pursuant to the authority granted by Section 162.01 et seq.,  
8 Florida Statutes, as may be amended, and Chapter 2 of the City Code of Ordinances, as may be  
9 amended; or (2) the City of Boca Raton through its authority to enjoin and restrain any person  
10 violating the City Code of Ordinances. The City of Boca Raton may also pursue any other  
11 enforcement remedies available at law or in equity.

12 (b) Any violation of this division is hereby deemed to be irreversible and irreparable  
13 in accordance with Section 162.01 et seq., Florida Statutes.

14 Section 2. If any section, subsection, clause or provision of this ordinance is held  
15 invalid, the remainder shall not be affected by such invalidity.

16 Section 3. All ordinances and resolutions or parts of ordinances and resolutions and  
17 all sections and parts of sections in conflict herewith shall be and hereby are repealed.

18 Section 4. Codification of this ordinance in the City Code of Ordinances is hereby  
19 authorized and directed.

20 Section 5. This ordinance shall take effect immediately upon adoption.  
21

1 PASSED AND ADOPTED by the City Council of the City of Boca Raton this 25<sup>th</sup> day  
2 of September, 2018.

3  
4 CITY OF BOCA RATON, FLORIDA

5  
6 ATTEST:

7  
8  
9 Susan S. Saxton  
10 Susan S. Saxton, City Clerk

11  
12 Scott Singer  
13 Scott Singer, Mayor

14 Approved as to form:

15  
16  
17 Diana Grub Frieser  
18 Diana Grub Frieser  
19 City Attorney

20  
21  
22 O18917v2  
23

COUNCIL VOTE			
	YES	NO	ABSTAINED
MAYOR SCOTT SINGER	✓		
DEPUTY MAYOR JEREMY RODGERS	✓		
COUNCIL MEMBER MONICA MAYOTTE	✓		
COUNCIL MEMBER ANDREA LEVINE O'ROURKE	✓		
COUNCIL MEMBER ANDY THOMSON	✓		

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