

**ORDINANCE NO. 2021-6**

**AN ORDINANCE OF THE VILLAGE OF PINECREST,  
FLORIDA, AMENDING THE CODE OF ORDINANCES TO  
CREATE NEW ARTICLE ENTITLED "FERTILIZER USE";  
PROVIDING FOR PENALTIES; PROVIDING FOR  
SEVERABILITY; PROVIDING FOR CONFLICTS;  
PROVIDING FOR CODIFICATION; AND PROVIDING  
FOR AN EFFECTIVE DATE.**

WHEREAS, excessive nutrients and/or increasing levels of nitrogen and phosphorus in the surface and/or ground water have resulted in the impairment to Miami-Dade County's surface waters; and

WHEREAS, the Village Council has determined that the use of fertilizers on lands within the Village creates a risk to contributing to adverse effects on surface and/or ground water; and

WHEREAS, the Village Council finds that additional management measures than those otherwise contained in the most recent edition of the "Florida-friendly Best Management Practices for Protection of Water Resources by the Green Industries, 2015" are required; and

WHEREAS, the Village Council finds that this Ordinance is necessary for the preservation and improvement of the environment, public health, safety, and welfare of the Village's residents;

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF PINECREST, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. That the above stated recitals are hereby adopted and confirmed.

Section 2. Village Code Amended. The Village Council of the Village of Pinecrest hereby amends Chapter 15, Article 1 of the Code of Ordinances as follows:

## **“Chapter 16 – OFFENSES AND MISCELLANEOUS PROVISIONS**

\* \* \* \*

### **ARTICLE ~~XIII~~. – PROPER USE OF FERTILIZERS**

**Sec. 16-~~141~~. PURPOSE AND INTENT.** This Ordinance regulates the proper use of fertilizers by any applicator; requires proper training of Commercial and Institutional Fertilizer Applicators; establishes training and licensing requirements; establishes a Prohibited Application Period; specifies allowable fertilizer application rates and methods, fertilizer-free zones, low maintenance zones, and exemptions. The Ordinance requires the use of Best Management Practices, which provide specific management guidelines to minimize negative secondary and cumulative environmental effects associated with the misuse of fertilizers. These secondary and cumulative effects have been observed in and on natural and constructed stormwater conveyances, canals, springs, lakes, estuaries and other water bodies. Collectively, these water bodies are an asset critical to the environmental, recreational, cultural and economic well-being of the Village residents and the health of the public. Overgrowth of algae and vegetation hinder the effectiveness of flood attenuation provided by natural and constructed stormwater conveyances. Regulation of nutrients, including both phosphorus and nitrogen contained in fertilizer, will help improve and maintain water and habitat quality.

**Sec. 16-~~142~~. DEFINITIONS.** For this Article, the following terms shall have the meanings set forth in this section unless the context clearly indicates otherwise.

*Application or Apply* means the actual physical deposit of fertilizer to turf or landscape plants.

*Applicator* means any Person who applies fertilizer on turf and/or landscape plants in the municipality.

*Best Management Practices* means turf and landscape practices, or combination of practices based on research, field-testing, and expert review, determined to be the most effective and practicable on-location means, including economic and technological considerations, for improving water quality, conserving water supplies and protecting natural resources.

~~*Code Enforcement Officer, Official, or Inspector* means any designated employee or agent of the Village whose duty it is to enforce codes and ordinances.~~

*Commercial Fertilizer Applicator*, except as provided in F.S. 482.1562(9), means any person who applies fertilizer for payment or other consideration to property not owned by the person or firm applying the fertilizer or the employer of the applicator.

*Fertilize, Fertilizing, or Fertilization* means the act of applying fertilizer to turf, specialized turf, or landscape plants.

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

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

*Institutional Applicator* means any person, other than a private, non-commercial or a Commercial Applicator (unless such definitions also apply under the circumstances), that applies fertilizer for the purpose of maintaining turf and/or landscape plants. Institutional

Applicators shall include, but shall not be limited to, owners, managers, or employees of public lands, schools, parks, religious institutions, utilities, industrial or business sites and any residential properties maintained in condominium and/or common ownership.

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

*Low Maintenance Zone* means an area a minimum of ten (10) feet wide adjacent to surface waters which is planted and managed in order to minimize the need for fertilization, watering, mowing, etc.

~~Miami Dade County Approved Best Management Practices Training Program means a training program approved per F.S. 403.9338, or any more stringent requirements set forth in this Article that includes the most current version of the Florida Department of Environmental Protection Florida friendly Best Management Practices for Protection of Water Resources by the Green Industries, 2015, as revised.~~

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

*Prohibited Application Period* means the time period during which a Flood Watch or Warning, or a Tropical Storm Watch or Warning, or a Hurricane Watch or Warning is in effect for any portion of Miami-Dade County, issued by the National Weather Service, or if heavy rain greater than or equal to two inches in a 24-hour period is likely forecasted.

*Restricted Application Period* means June 1st May 15th to September 30th October 31.

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

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

~~Surface Waters as defined by the Florida Department of Environmental Protection (F.A.C. 62-340) means waters on the surface of the earth, contained in bunds created naturally or artificially, including the Atlantic Ocean, bays, bayous, sounds, estuaries, lagoons, lakes, ponds, impoundments, rivers, streams, springs, creeks, branches, sloughs, tributaries, canals, and ditches.~~

Turf, Sod, or Lawn means a piece of grass-covered soil held together by the roots of the grass.

~~Urban Landscape means pervious areas on residential, commercial, industrial, institutional, highway rights of way, or other nonagricultural lands that are planted with turf or horticultural plants.~~

Village means the Village of Pinecrest, Florida.

**Sec. 16-~~143~~. APPLICABILITY.** This Ordinance shall be applicable to and shall regulate any and all applicators of fertilizer and areas of application of fertilizer within the area of the Village, unless such applicator is specifically exempted by the terms of this Ordinance from the regulatory provisions of this Ordinance. This Ordinance shall be prospective only and shall not impair any existing contracts.

**Sec. 16-~~144~~. TIMING OF FERTILIZER APPLICATION.**

(a) No applicator shall apply fertilizers containing nitrogen and/or phosphorus to turf and/or landscape plants during the Prohibited Application Period, or to saturated soils. In addition, fertilizer containing nitrogen or phosphorus shall not be applied to turf or landscape plants during the Restricted Application Period, which is defined as May 15 ~~June 1st to September 30th~~ October 31.

(b) Fertilizer shall only be applied to actively growing turf.

(c) Fertilizer containing nitrogen or phosphorus shall not be applied before seeding or sodding a site, and shall not be applied for the first ~~30~~ **60** days after seeding or sodding, except when hydro-seeding for temporary or permanent erosion control in an emergency situation (wildfire, etc.), or in accordance with the Stormwater Pollution Prevention Plan for that site.

**Sec. 16-~~145~~. FERTILIZER FREE ZONE.** Fertilizer shall not be applied within ~~fifteen (15)~~ **twenty (20)** feet of any pond, stream, watercourse, lake, canal, stormwater drains, or wetland as defined by the Florida Department of Environmental Protection (Fla. Admin. Code 62-340) or from the top of a seawall. If more stringent regulations apply, this provision does not relieve the requirement to adhere to the more stringent regulations. ~~Newly planted turf and/or landscape plants may be fertilized in this Zone only for a sixty (60) day period beginning 30 days after planting if needed to allow the plants to become well established. Caution shall be used to prevent direct deposition of nutrients into the water.~~

**Sec. 16-~~146~~. LOW MAINTENANCE ZONES.** A voluntary ten (10) foot low maintenance zone is strongly recommended, but not mandated, from any pond, stream, water course, lake, wetland, or from the top of a seawall. A swale/berm system is recommended for installation at the landward edge of this low maintenance zone to capture and filter runoff. If more stringent regulations apply, this provision does not relieve the requirement to adhere to the more stringent regulations. No mowed or cut vegetative material may be deposited or left remaining in this zone or deposited in the water. Care should be taken to prevent the over-spray of aquatic weed products in this zone.

**Sec. 16-~~147~~. FERTILIZER CONTENT AND APPLICATION RATES.**

(a) Fertilizers shall be applied to turf and/or landscape plants at the lowest recommended rate according to the "Florida Green Industries Best Management Practices for Protection of Water Resources in Florida, December 2008", as updated, with no more than four (4) pounds of nitrogen per one thousand (1,000) square feet applied in any calendar year. and no more than one (1) pound of nitrogen per one thousand (1,000) square feet per application of fertilizer.

(b) No fertilizer containing phosphorus shall be applied to turf and/or landscape plants in the Village, except where a phosphorus deficiency has been demonstrated in the soil underlying the turf and/or landscape plants by a soil analysis test performed by a State of Florida certified laboratory. Any person who obtains a soil analysis test showing a phosphorus deficiency and who wishes to apply phosphorus to turf and/or landscape plants shall provide a copy of the test results to the Village prior to the application of phosphorus. Where a phosphorous deficiency has been demonstrated and approved by

the Village, phosphorous Fertilizer shall be applied in an amount not to exceed 0.50 pounds of phosphorous per one thousand (1,000) square feet applied in a calendar year and in an amount not to exceed 0.25 pounds of phosphorous per (1,000) square feet per application.

(c) Granular fertilizers containing nitrogen applied to turf and/or landscape plants within the Village shall contain no less than ~~fifty (50)~~ sixty-five (65) percent slow release nitrogen per guaranteed analysis label.

(d) Nitrogen or phosphorus fertilizer shall not be applied to turf and/or landscape plants except as provided in (a) UF/IFAS recommendations for landscape plants, vegetable gardens, fruit trees, shrubs, and plants kept above ground in planters, pots, tubs, or containers, unless a soil or tissue deficiency has been verified by an approved test.

(e) Liquid fertilizers containing nitrogen applied to turf and/or landscape plants within the Village shall not be applied at a rate that exceeds 0.5 pounds per one thousand (1,000) square feet per application.

~~(f) Fertilizers labeled for sports turf at golf courses, parks, and athletic fields shall:~~

~~1. Have directions for use not to exceed rates recommended in the document titled SL191-Recommendations for N, P, K and Mg for Golf Course and Athletic Field Fertilization Based on Mehlich I Extractant, dated March 2007, which is hereby adopted and incorporated by reference into this rule.~~

~~2. Have directions for use in accordance with the recommendations in "BMP's for the Enhancement of Environmental Quality on Florida Golf Courses", published by the Florida Department of Environmental Protection, dated October 2012. Note that this does not exempt applicators at these sites from the required basic Green Industry BMP training.~~

## **Sec. 16-~~148~~. APPLICATION PRACTICES.**

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

(b) Fertilizer shall not be applied, spilled, or otherwise deposited on any impervious surfaces.

(c) Any fertilizer applied, spilled, or deposited, either intentionally or accidentally, on any impervious surface shall be immediately and completely removed to the greatest extent practicable.

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

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

**Sec. 16-~~149~~. MANAGEMENT OF GRASS CLIPPINGS AND VEGETATIVE MATTER.**

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

**Sec. 16-~~150~~. EXEMPTIONS.** The provisions set forth above in this Ordinance shall not apply to:

(a) Bona fide farm operations as defined in the Florida Right to Farm Act, Section 823.14 Florida Statutes provided that fertilizers are applied in accordance with the appropriate Best Management Practices Manual adopted by the state Department of Agriculture and Consumer Services, office of agricultural water policy for the crop in question;

(b) Other properties not subject to or covered under the Florida Right to Farm Act that have pastures for grazing livestock provided that fertilizers are applied in accordance with the appropriate Best Management Practices Manual adopted by the Florida Department of Agriculture and Consumer Services, office of agricultural water policy for the crop in question;

(c) Any lands used for bona fide scientific research including, but not limited to, research on the effect of fertilizer use on urban stormwater, water quality, agronomics, or horticulture.



**Sec. 16-~~151~~. TRAINING.**

(a) All commercial and institutional **fertilizer** applicators ~~of fertilizer~~ within the Village's jurisdiction, shall abide by and successfully complete the six-hour training program in the Florida-friendly Best Management Practices for Protection of Water Resources by the Green Industries offered by the Florida Department of Environmental Protection through the University of Florida Extension Florida-Friendly Landscapes program, or an approved equivalent.

(b) Private, non-commercial applicators are required to follow the recommendations of the University Florida IFAS Florida Yards and Neighborhoods program when applying fertilizers.

**Sec. 16-~~152~~. LICENSING OF COMMERCIAL APPLICATORS.**

(a) Prior to ~~[DATE]~~ **July 31, 2021**, all **commercial fertilizer** applicators ~~of fertilizer~~ within the Village's jurisdiction shall abide by and successfully complete training and continuing education requirements in the "Florida-friendly Best Management Practices for Protection of Water Resources by the Green Industries," offered by the Florida Department of Environmental Protection through the University of Florida IFAS "Florida-Friendly Landscapes" program, or an approved equivalent program, prior to obtaining a Pincrest Business Tax Certificate or equivalent for any category of occupation which may apply any fertilizer to turf and/or landscape plants. Commercial Fertilizer Applicators shall provide proof of completion of the program to the Village within 180 days of the effective date of this ordinance.

(b) After ~~[DATE]~~ **July 31, 2021**, all commercial **fertilizer** applicators ~~of fertilizer~~ within the Village's jurisdiction shall have and carry in their possession at all times when applying fertilizer, evidence of certification by the Florida Department of Agriculture and Consumer Services as a Commercial Fertilizer Applicator per 5E-14.117(18) F.A.C.

(c) All businesses applying fertilizer to turf and/or landscape plants (including but not limited to residential lawns, golf courses, commercial properties, and multi-family and condominium properties) must ensure that at least one employee has a "Florida-friendly Best Management Practices for Protection of Water Resources by the Green Industries" training certificate prior to the business owner obtaining a Local Business Tax Certificate or equivalent. Owners for any category of occupation which may apply any fertilizer to Turf and/or Landscape Plants shall provide proof of completion of the program to the Village.

**Sec. 16-~~153~~. PENALTIES.** Violation of any provision of this Article shall be subject to the following penalties:

- First violation. Written notification and education.
- Second violation. Fifty dollars (\$50.00).
- Third violation. One hundred dollars (\$100.00).
- Fourth and subsequent violation(s). Five hundred dollars (\$500.00) ~~increasing 10-fold with each violation.~~

Each day in violation of this Article within a three hundred sixty-five (365) days period, beginning the date of the first violation, shall constitute a separate offense. The Village may take any other appropriate legal action, including but not limited to emergency injunctive action, to enforce the provisions of this Article.

Funds generated by penalties imposed under this section shall be ~~used by the Village for the administration and enforcement of F.S. 403.9337 and the corresponding sections of this ordinance, and to further water conservation and nonpoint pollution prevention activities deposited into the Stormwater Utility Fund.~~

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Section 3. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Conflict. All Sections or parts of Sections of the Code of Ordinances, all ordinances or parts of ordinances, and all Resolutions, or parts of Resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

Section 5. Codification. It is the intention of the Village Council, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Code

of the Village of Pinecrest; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 6. Effective Date. This Ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading this 13th day of April, 2021.

PASSED AND ADOPTED on second reading this \_\_\_th day \_\_\_\_\_, 2021.

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Joseph M. Corradino, Mayor

Attest:

\_\_\_\_\_  
Guido H. Inguanzo, Jr., CMC  
Village Clerk

Approved as to Form and Legal Sufficiency:

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Mitchell Bierman  
Village Attorney