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*An Important Notice From:
Lee County Department Of Natural Resources*

In May of 2008, Lee County Board of County Commissioners approved regulations on fertilizer use which took effect this month. These rules are designed to protect and improve the quality of water in our back bays, estuaries, Caloosahatchee River and Gulf of Mexico by limiting nutrients that can be caught up in stormwater runoff and which could contribute to algae growth in area waters.

The quality of our coastal waters is critical to our environment, economy and recreation. Even if you do not reside on a waterfront, the land you live on is directly connected to a nearby water body. What you do in your yard, especially the nitrogen and phosphorus fertilizers you apply, may have unintended consequences.

The new regulations apply to professionals and homeowners alike. By following the new rules and using fertilizer properly, we will protect our area's valuable ecosystems.

Please refer to the enclosed brochure to become familiar with the new year-round regulations.

Be part of the solution to prevent water pollution. By respecting the link between our lawns, landscapes and the health of our area waterways, we can ensure water quality for recreation, marine fisheries and the important economic resource of our waters and beaches.

LEE COUNTY ORDINANCE NO. 08-08

AN ORDINANCE REGULATING LANDSCAPE MANAGEMENT PRACTICES INCLUDING THE APPLICATION AND USE OF FERTILIZERS CONTAINING NITROGEN AND/OR PHOSPHORUS WITHIN UNINCORPORATED LEE COUNTY; PROVIDING FINDINGS; PROVIDING FOR PURPOSE AND INTENT; PROVIDING DEFINITIONS; PROVIDING FOR APPLICATION; PROVIDING FOR REGISTRATION OF PROFESSIONAL LANDSCAPING BUSINESSES AND INSTITUTIONAL LANDSCAPERS; PROVIDING FOR TRAINING AND CERTIFICATION OF PROFESSIONAL LANDSCAPING BUSINESSES AND INSTITUTIONAL LANDSCAPERS; PROVIDING FOR MANDATORY BEST MANAGEMENT PRACTICES; PROVIDING FOR EXEMPTIONS TO LANDSCAPING BEST MANAGEMENT PRACTICES; PROVIDING EXEMPTIONS FOR AGRICULTURE, GOLF COURSES AND SPECIALIZED TURF; PROVIDING FOR ENFORCEMENT AND PENALTY; PROVIDING FOR CODIFICATION AND SCRIVENER'S ERRORS; PROVIDING FOR CONFLICTS OF LAW; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE, INCLUDING ONE YEAR IMPLEMENTATION PERIOD.

WHEREAS, the Florida Department of Environmental Protection has identified specific water bodies in Lee County as "impaired" as a result of excess nutrients under the Florida Impaired Waters Rule (Chapter 62-303, Florida Administrative Code); and

WHEREAS, surface water runoff containing excess nutrients leaves residential neighborhoods, farms, commercial centers, industrial areas and other lands of Lee County with low permeability soils; and

WHEREAS, base-flow runoff containing excess nutrients flows from residential neighborhoods, farms, commercial centers, industrial areas, and other lands of Lee County with high permeability soils; and

WHEREAS, surface water and baseflow runoff containing excess nutrients enters into natural and artificial stormwater and drainage conveyances and natural water bodies in Lee County; and

WHEREAS, the detrimental effects of nutrient-laden runoff are magnified in a coastal community such as Lee County, due to the proximity of stormwater and drainage conveyances to coastal waters; and

WHEREAS, nutrient-laden runoff fosters plant and algae growth; and

WHEREAS, the quality of our bays, estuaries, streams, lakes, and the Gulf of Mexico is critical to environmental, economic and recreational prosperity and to the health, safety and welfare of the citizens of Lee County; and

WHEREAS, recent red tide blooms, accumulation of red drift algae on local beaches and blue-green algae blooms in our freshwater systems have heightened community concerns about water quality and eutrophication of surrounding waters; and

WHEREAS, leaching and runoff of nutrients from improper landscaping or excess fertilization practices upstream of as well as within Lee County can contribute to nitrogen and phosphorus pollution in the County's stormwater and drainage conveyances and natural water bodies; and

WHEREAS, nitrogen and phosphorus pollution in the County's stormwater and drainage conveyances and natural water bodies leads to the overgrowth of vegetation in these waterways; and

WHEREAS, Lee County's natural and artificial stormwater and drainage conveyances regulate the flow of stormwater to prevent flooding; and

WHEREAS, the overgrowth of vegetation in stormwater and drainage conveyances hinders the goal of flood prevention; and

WHEREAS, it is generally recognized that many Florida soils are naturally high in phosphorus; and

WHEREAS, it has been recognized by soil science professionals that the use of slow release nitrogen sources minimizes harmful nitrate leaching; and

WHEREAS, nitrogen from slow release sources is more likely to be used by plants and less likely to leach out or wash away in stormwater runoff; and

WHEREAS, the Florida Department of Environmental Protection will mandate total maximum daily loads for "impaired" water bodies in Lee County; and

WHEREAS, this ordinance is part of a multi-pronged effort by Lee County to meet these total maximum daily loads and reduce nutrient loading into runoff through such policies as, but not limited to, basin management action planning, stormwater management, water conservation, management of septic systems, public education, and development standards as set forth in the Lee County Land Development Code.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS FOR LEE COUNTY, FLORIDA, that:

SECTION ONE: FINDINGS

The above "WHEREAS" clauses are hereby deemed by Lee County to constitute findings of Lee County for purposes of this Ordinance and are incorporated herein as if fully set forth in this section.

SECTION TWO: PURPOSE AND INTENT

The purpose and intent of this Ordinance is to provide for the regulation of landscape management practices and the application of fertilizers containing nitrogen and/or phosphorus and to provide specific guidelines for landscaping and fertilization in order to meet Federal and State mandated water quality standards and to minimize the negative environmental effects said fertilizers have in and on Lee County's lakes, canals, estuaries, interior freshwater wetlands, the Caloosahatchee River and nearshore waters of the Gulf of Mexico. Collectively these water bodies are a natural asset, which are critical to the environmental, recreational, cultural and economic well being of Lee County and the surrounding areas and contribute to the general health and welfare of the public. Regulation of nutrients, including both phosphorus and nitrogen contained in fertilizer, entering the water bodies in and around Lee County is a crucial step towards improving and maintaining water and habitat quality.

SECTION THREE: DEFINITIONS

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

- A. Best Management Practices (BMPs) – a practice or combination of practices based on research, field-testing and expert review, determined to be the most effective and practicable on-location means, including economic and technological considerations, for improving water quality, conserving water supplies and protecting natural resources.
- B. BMP Trained Landscaper – any Person who has completed the proper training, obtained a Certificate of Completion and is qualified and responsible to provide lawn care and maintenance or landscaping in unincorporated Lee County.
- C. Certificate of Completion – the documentation evidencing completion of a Lee County approved BMP training course or any other future certification or licensing requirements mandated by the State of Florida.
- D. Division – the Division of Lee County Natural Resources.
- E. Fertilize, Fertilizing or Fertilization – the act of applying fertilizer to Turf, specialized Turf or Landscape Plants.
- F. Fertilizer – any substance that contains one or more recognized plant nutrients and promotes plant growth, or controls soil acidity or alkalinity, or provides other soil enrichment, or provides other corrective measures to the soil.
- G. Impervious surfaces - a constructed surface such as, sidewalks, roads, parking lots or driveways - covered by impenetrable materials such as asphalt, concrete, brick, pavers, stone and/or highly compacted soils.
- H. Institutional Landscaper – any Person, other than a Professional Landscaping Business or Non-Professional Landscaper (unless such definitions also apply under the circumstances), that performs lawn care or maintenance. Institutional Landscapers shall include, but shall not be limited to, owners and managers of public lands, schools, parks, religious institutions, utilities, industrial or business sites and any residential properties maintained in condominium and/or common ownership.
- I. Landscape Plant – any native or exotic tree, shrub or groundcover (excluding Turf).
- J. Lawn Care and Maintenance or Landscaping (landscaping) - shall include, but not be limited to, mowing, trimming, pruning, edging, liming, fertilizing, mulching, seeding and aerating of turf and/or landscaping plants.