



# DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

## PLANNING AND ZONING BOARD STAFF REPORT

### Fertilizer Use Regulations

Meeting	File No.	Application Type
September 17, 2024	2024-240-LDR	Amendment to the Land Development Regulations
Applicant	Property Owner	Authorized Agent
City of Delray Beach, Public Works Department	Not applicable.	Not applicable.

### Request

Provide a recommendation to the City Commission on Ordinance No. 28-24, a City-initiated amendment to Section 4.6.16, "Landscape Regulations" of the Land Development Regulations (LDR) to adopt comprehensive fertilizer use regulations in compliance with Florida Department of Environmental Protection (FDEP) requirements.

### Background Information

The FDEP has determined that certain water bodies within Palm Beach County are impaired by excessive nutrient levels associated with improper fertilizer use; Lake Ida and the Intracoastal Waterway are both classified as impaired. Phosphorus and nitrogen are the primary, common components of fertilizer for turf and landscape application. These accelerate the growth of algae blooms and aquatic weeds in Palm Beach County's water bodies, which in turn has a negative impact on water quality. Higher concentrations of nitrogen and phosphorus cause the excessive growth of algae that may deplete the oxygen in the water and create dead zones inhospitable to plant and animal life.

The FDEP issued Palm Beach County Municipal Separate Storm Sewer System Permit No. FLS 000018-004 ("MS4 Permit") to 40 governmental entities including the City of Delray Beach. The MS4 Permit requires local governments within the watershed to adopt an Ordinance that includes all the requirements in the FDEP Model Ordinance.

The proposed Ordinance adopts best management practices for the use of fertilizers; requirements for proper training of commercial and institutional fertilizer applicators; training and licensing requirements; a prohibited application period; and allowable fertilizer application rates and methods, fertilizer-free zones, and exemptions. The proposed ordinance is in line with the FDEP Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes 2015.

### Description of Proposal

The following changes are proposed in LDR Section 4.6.16:

- **Subsection (I), "Minimum Maintenance Requirements."** Eliminates the minimal fertilizer use regulations in favor of a comprehensive section on fertilizer use, that meets the requirements of FDEP.
- **[NEW] Subsection (J), "Fertilizer Management."** The following subsections are proposed:
  - (1) Purpose and intent
  - (2) Applicability
  - (3) Definitions
  - (4) Timing of fertilizer applications
  - (5) Fertilizer free zones

- (6) Low Maintenance Zones
- (7) Fertilizer content and application rates
- (8) Fertilizer application practices
- (9) Management of grass clippings and vegetative matter
- (10) Exemptions
- (11) Training
- (12) Licensing of commercial applicators
- (13) Enforcement
- (14) Penalties

The full draft of Ordinance No. 28-24 is attached.

## Review and Analysis

### **LDR Section 1.1.6, Amendments**

*The text of these Land Development Regulations may from time to time be amended, changed, supplemented, or repealed. No such action however, shall be taken until a recommendation is obtained from the Planning and Zoning Board and until a public hearing has been held by the City Commission.*

The recommendation of the Planning and Zoning Board will be provided to the City Commission, where the amendments will be reviewed at two public meetings.

### **LDR Section 2.4.7(A)**

*Amendments to the Land Development Regulations may be initiated by the City Commission, City Administration, or by a member of the public.*

The proposed amendment is initiated by the Public Works Department, in order to maintain compliance with Federal Emergency Management Agency (FEMA) National Flood Insurance Program (NFIP) Community Rating System (CRS).

### **LDR Section 2.4.7(A)(5), Findings**

*For any approval, the City Commission must make a finding that the text amendment is consistent with the Comprehensive Plan, and that the amendment furthers the implementation of an adopted neighborhood plan, if applicable.*

The following Goals, Objectives, and Policies (GOPs) of the adopted Comprehensive Plan are applicable to the proposed amendment:

### **Neighborhoods, Districts, and Corridors Element**

Objective NDC 3.5 Update Land Development Regulations *Regularly review and update the Land Development Regulations to provide timely, equitable and streamlined processes including, but not limited to, building permit processes for residential developments and to accommodate mixed-use developments, address market changes and development trends, and other innovative development practices.*

### **Conservation, Sustainability, and Resilience Element**

GOAL CSR 2 WATER RESOURCES CONSERVATION AND PROTECTION *PROVIDE A SUSTAINABLE WATER SUPPLY BY PROTECTING, CONSERVING, AND REUSING THE CITY'S WATER SUPPLY, BY MAINTAINING AND IMPROVING THE CITY'S WATER QUALITY, AND BY EDUCATING THE PUBLIC ABOUT THEIR ROLE IN THESE EFFORTS.*

Objective CSR 2.3 Water Quality *Implement specific programs to monitor, enforce, reduce, eliminate, and provide environmentally responsible disposal methods of materials that may be hazardous or contaminate the water supply, groundwater, surface water, or other water resources.*

Policy CSR 2.6.3 *Review City regulations on fertilizer application and update, if needed, to incorporate concepts including, but not limited to, blackout periods, effectiveness of enforcement and setback distances from water bodies. Expand education and outreach efforts for homes and business owners on proper fertilizer application techniques and the adverse fertilizer impacts on City water quality.*

The proposed amendment brings the City into compliance with FDEP requirements.

Review By Others

The **City Commission** is anticipated to review the proposed LDR Amendment at its meetings in October 2024.

Options for Board Action

- A. Recommend **approval** to the City Commission of Ordinance No. 28-24, a City-initiated amendment to Section 4.6.16, "Landscape Regulations" of the Land Development Regulations (LDR) to adopt comprehensive fertilizer use regulations in compliance with Florida Department of Environmental Protection (FDEP) requirements, finding that the amendment and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in Land Development Regulations.
- B. Recommend **approval** to the City Commission of Ordinance No. 28-24, **as amended**, a City-initiated amendment to Section 4.6.16, "Landscape Regulations" of the Land Development Regulations (LDR) to adopt comprehensive fertilizer use regulations in compliance with Florida Department of Environmental Protection (FDEP) requirements; finding that the amendment, as amended, and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in Land Development Regulations.
- C. Recommend **denial** to the City Commission of Ordinance No. 28-24, a City-initiated amendment to Section 4.6.16, "Landscape Regulations" of the Land Development Regulations (LDR) to adopt comprehensive fertilizer use regulations in compliance with Florida Department of Environmental Protection (FDEP) requirements; finding that the amendment and approval thereof is not consistent with the Comprehensive Plan and does not meet the criteria set forth in Land Development Regulation

Public and Courtesy Notices

Courtesy Notices are not applicable to this request.

N/A Public Notices are not required for this request.