

1  
2 | **ORDINANCE NO. ~~2013-1994~~2016-2087**  
3

4 **AN ORDINANCE OF THE CITY COUNCIL OF NEW PORT**  
5 **RICHEY, FLORIDA, FOCUSING ON EXCESSIVE**  
6 **NUTRIENT LEVELS IN NEW PORT RICHEY WATER**  
7 **BODIES; PROVIDING FOR TITLE; PROVIDING FOR**  
8 **DEFINITIONS; PROVIDING FOR FINDINGS; PROVIDING**  
9 **FOR PURPOSE AND INTENT; PROVIDING FOR**  
10 **APPLICABILITY; PROVIDING FOR TIMING OF**  
11 **FERTILIZER APPLICATIONS; PROVIDING FOR**  
12 **FERTILIZER FREE ZONES; PROVIDING FOR**  
13 **FERTILIZER CONTENT AND APPLICATION RATES;**  
14 **PROVIDING FOR FERTILIZER APPLICATION**  
15 **PRACTICES; PROVIDING FOR MANAGEMENT OF**  
16 **GRASS CLIPPINGS AND VEGETATIVE MATTER;**  
17 **PROVIDING FOR EXEMPTIONS; PROVIDING FOR**  
18 **TRAINING; PROVIDING FOR LICENSING OF**  
19 **COMMERCIAL APPLICATORS; PROVIDING FOR**  
20 **ENFORCEMENT; PROVIDING FOR PENALTIES;**  
21 **PROVIDING FOR APPEAL; PROVIDING FOR**  
22 **SEVERABILITY; PROVIDING FOR INCLUSION IN THE**  
23 **CODE OF LAWS AND ORDINANCES; PROVIDING FOR**  
24 **ENFORCEMENT; PROVIDING FOR CAPTIONS; AND**  
25 **PROVIDING FOR AN EFFECTIVE DATE.**  
26

27 **WHEREAS**, pursuant to Section 303(d) of the federal Clean Water Act and the  
28 resulting Florida Impaired Waters Rule (Chapter 62-303, Florida Administrative Code),  
29 the Florida Department of Environmental Protection (FDEP) has classified specific  
30 water bodies in the Springs Coast basin, which includes New Port Richey, as “impaired”  
31 as a result of the presence of excessive nutrients; and

32 **WHEREAS**, Florida Statute, Section 403.9337 requires that local governments  
33 located within the watershed of a water body or water segment that is listed as impaired  
34 by nutrients pursuant to Florida Statute, Section 403.067, shall, at a minimum, adopt the

1 FDEP's Model Ordinance for Florida-Friendly™ Fertilizer Use on Urban Landscapes;  
2 and

3 **WHEREAS**, the FDEP has prepared in 2009 and updated in 2010 a Model  
4 Ordinance for Florida Friendly Use of Fertilizer on Urban Landscapes; and

5 **WHEREAS**, surface water runoff and base flow runoff leaves residential  
6 neighborhoods, commercial centers, industrial areas, and other lands of New Port  
7 Richey and enters into natural and artificial stormwater and drainage conveyances and  
8 natural water bodies in New Port Richey; and

9 **WHEREAS**, phosphorus and nitrogen, the primary nutrients associated with the  
10 degradation of surface water, are commonly the primary components of fertilizer for turf  
11 and landscape application; and

12 **WHEREAS**, the quality of streams, lakes, and wetlands is important to  
13 environmental, economic, and recreational prosperity and to the health, safety, and  
14 welfare of the residents of New Port Richey; and

15 **WHEREAS**, algae blooms and accelerated growth of aquatic weeds in New Port  
16 Richey's water bodies have heightened community concerns about water quality and  
17 eutrophication of surrounding waters; and

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

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

1           **WHEREAS**, in the process of adoption of this Ordinance, the City Council of New  
2 Port Richey has considered scientific information, including input from the Department  
3 of Environmental Protection, the Department of Agriculture and Consumer Services,  
4 and the University of Florida Institute of Food and Agricultural Sciences (UF/IFAS).

5           **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF NEW**  
6 **PORT RICHEY, FLORIDA, that:**

7  
8           **SECTION I. TITLE:**

9           This Ordinance shall be known as the Florida-Friendly Use of Fertilizer on Urban  
10 Landscapes Ordinance.

11  
12           **SECTION II. DEFINITIONS:**

13           For this Ordinance, the following terms shall have the meanings set forth in this  
14 section unless the context clearly indicates otherwise.

15           1.    “Administrator” means the New Port Richey City Manager, or an  
16 administrative official of New Port Richey government designated by the City Manager  
17 to administer and enforce the provisions of this Ordinance.

18           2.    “Application” or “Apply” means the actual physical deposition of fertilizer to  
19 turf or landscape plants.

20           3.    “Applicator” means any person who applies fertilizer on turf and/or  
21 landscape plants in New Port Richey.

1           ~~4. “Approved Test” means a soil test from the University of Florida,~~  
2 ~~government, or other commercial licensed laboratory that regularly performs soil testing~~  
3 ~~and recommendations.~~

4           5.4. “Best Management Practices (BMP’s)” means turf and landscape  
5 practices or combination of practices based on research, field-testing, and expert  
6 review, determined to be the most effective and practical site-specific means, including  
7 economic and technological considerations, for improving water quality, conserving  
8 water supplies and protecting natural resources.

9           6.5. “Code Enforcement Officer”, “Official”, or “Inspector” means any  
10 designated employee or agent of New Port Richey whose duty it is to enforce codes  
11 and ordinances enacted by New Port Richey.

12           7.6. “Commercial Fertilizer Applicator” except as provided in section  
13 482.1562(9), F.S., means any person who applies fertilizer for payment or other  
14 consideration to property not owned by the person or firm applying the fertilizer or the  
15 employer of the applicators.

16           8.7. “Fertilize”, “Fertilizing”, or “Fertilization” means the act of applying fertilizer  
17 to turf, specialized turf, or landscape plants.

18           8. “Fertilizer” means any substance or mixture of substances that contains  
19 one or more recognized plant nutrients and promotes plant growth, or controls soil  
20 acidity or alkalinity, or provides other soil enrichment, or provides other corrective  
21 measures to the soil.

22           9. Guaranteed Analysis means the percentage of Plant nutrients or  
23 measures of neutralizing capability claimed to be present in a fertilizer.

1  
2 9.10. "Governing Board" means the City Council of New Port Richey, Florida.

3 ~~10.11.~~ "Institutional Applicator" means any person, other than a private, non-  
4 commercial or a Commercial Applicator (unless such definitions also apply under the  
5 circumstances), that applies fertilizer for the purpose of maintaining turf and/or  
6 landscape plants. Institutional Applicators shall include, but shall not be limited to,  
7 owners, managers, or employees of public lands, schools, parks, religious institutions,  
8 utilities, industrial or business sites and any residential properties maintained in  
9 condominium and/or common ownership.

10 ~~11.12.~~ "Landscape Plant" means any native or ~~non-native~~ exotic tree, shrub, or  
11 groundcover (excluding turf).

12 ~~12.13.~~ "Low Maintenance Zone" means an area a minimum of ten (10) feet wide  
13 adjacent to water courses which is planted and managed in order to minimize the need  
14 for fertilization, watering, mowing, etc.

15 ~~13. — "Pasture" means land managed for livestock grazing.~~

16 14. "Person" means any natural person, business, corporation, limited liability  
17 company, partnership, limited partnership, association, club, organization, and/or any  
18 group of people acting as an organized entity.

19 15. "Prohibited Application Period" means the time period during which a  
20 Flood Watch or Warning, a Tropical Storm Watch or Warning, or a Hurricane Watch or  
21 Warning is in effect for any portion of Pasco County, issued by the National Weather  
22 Service, or if heavy rain is likely (2 inches or more within a twenty-four (24) hour period  
23 is advised as a 60% or more probability).

1           16.    “Saturated Soil” means a soil in which the voids are filled with water.  
2           Saturation does not require flow. For the purposes of this Ordinance, soils shall be  
3           considered saturated if standing water is present or the pressure of a person standing  
4           on the soil causes the release of free water.

5           17.    “Slow-Release”, “Controlled Release”, “Timed Release”, “Slowly-  
6           Available”, or “Water Insoluble Nitrogen” means nitrogen in a form which delays its  
7           availability for vegetative uptake and use after application, or which extends its  
8           availability to the vegetation longer than a reference rapid or quick release product.

9           18.    “Turf”, “Sod”, or “Lawn” means an area of grass-covered soil held together  
10          by the roots of the grass.

11          19.    “Urban Landscape” means pervious areas on residential, commercial,  
12          industrial, institutional, highway rights-of-way, or other nonagricultural lands that are  
13          planted with turf or landscape plants. For the purposes of this section, agriculture has  
14          the same meaning as provided in section 570.02, Florida Statutes.

15  
16          **SECTION III. FINDINGS:**

17          The City Council of New Port Richey has determined that the use of fertilizers on  
18          lands within New Port Richey creates a risk to contributing to adverse effects on surface  
19          and/or ground water. Accordingly, the governing board of New Port Richey finds that  
20          the best management practices contained in the most recent edition of the *“Florida-*  
21          *Friendly Best Management Practices for Protection of Water Resources by the Green*  
22          *Industries”* are required by this Ordinance.  
23

1        **SECTION IV. PURPOSE AND INTENT:**

2                This Ordinance regulates the proper use of fertilizers by any applicator; requires  
3        proper training of commercial and institutional fertilizer applicators; establishes training  
4        and licensing requirements; establishes a Prohibited Application Period; and specifies  
5        allowable fertilizer application rates and methods, fertilizer-free zones, low maintenance  
6        zones and exemptions. This Ordinance requires the use of Best Management Practices  
7        to minimize negative secondary and cumulative environmental effects associated with  
8        the misuse of fertilizers. These secondary and cumulative effects have been observed  
9        in and on natural and constructed stormwater conveyances, rivers, creeks, canals,  
10       springs, lakes, estuaries and other water bodies. Collectively, these water bodies are  
11       an asset important to the environmental, recreational, cultural and economic well-being  
12       of New Port Richey residents and the health of the public. Overgrowth of algae and  
13       vegetation hinder the effectiveness of stormwater conveyance provided by natural and  
14       constructed stormwater conveyances. Regulation of nutrients, including both  
15       phosphorus and nitrogen contained in fertilizer, is anticipated to help improve and  
16       maintain water and habitat quality.

17  
18        **SECTION V. APPLICABILITY:**

19                This Ordinance shall be applicable to and shall regulate any and all applicators of  
20        fertilizer and areas of application of fertilizer to urban landscapes within New Port  
21        Richey, unless such application is specifically exempted by the terms of this Ordinance  
22        from the regulatory provisions of this Ordinance. This Ordinance shall be prospective  
23        only, and shall not impair any existing contracts.

1  
2 **SECTION VI. TIMING OF FERTILIZER APPLICATIONS.**

3 1. No applicator shall apply fertilizers containing nitrogen and/or phosphorus  
4 to turf and/or landscape plants during the Prohibited Application Period or to saturated  
5 soils.

6 1.2. Prohibited Application Period of fertilizer, even in slow release  
7 formulations, during the summer rainy season typically June 1 to September 30.

8 2.3. Fertilizer containing nitrogen and/or phosphorus shall not be applied  
9 before seeding or sodding a site, and shall not be applied for the first thirty (30) days  
10 after seeding or sodding, except when hydro-seeding for temporary or permanent  
11 erosion control in an emergency situation (wildfire, etc), or in accordance with the  
12 Stormwater Pollution Prevent Plan for that site.

13  
14 **SECTION VII. FERTILIZER FREE ZONES:**

15 Fertilizer shall not be applied within ten (10) feet of any pond, stream, water  
16 body, lake, canal, or wetland as defined by the Florida Department of Environmental  
17 Protection (Chapter 62-340), Florida Administrative Code or from the top of a seawall or  
18 lake bulkhead, unless a deflector shield, drop spreader, or liquid applicator with a visible  
19 and sharply defined edge, is used, in which case a minimum of three (3) feet shall be  
20 maintained. Newly planted turf or landscape plants may be fertilized in this zone only  
21 for a sixty (60) day period beginning thirty (30) days after planting if needed to allow the  
22 vegetation to become well established. Caution shall be used to prevent direct  
23 deposition of fertilizer into the water.

1

2 **SECTION VIII. LOW MAINTENANCE ZONES**

3 For new construction or reconstruction projects, a voluntary ten (10) foot low  
4 maintenance zone is strongly recommended, but not mandated, from any pond, stream,  
5 water course, lake, wetland, or from the top of a seawall. A swale/berm system is  
6 recommended for installation at the landward edge of this low maintenance zone to  
7 capture and filter runoff. No mowed or cut vegetative material may be deposited or left  
8 remaining in this zone or deposited in the water. Care should be taken to prevent the  
9 over-spray of aquatic weed products in this zone.

10

11 **SECTION IX. FERTILIZER CONTENT AND APPLICATION RATES:**

12 1. Fertilizers applied to turf within New Port Richey shall be formulated and  
13 applied in accordance with requirements and directions provided by Rule 5E-1.003(2),  
14 Florida Administrative Code, *Labeling Requirements ~~For~~ Urban Turf Fertilizers*.  
15 Under Rule 5E-1.003(2), Florida Administrative Code, required application rate and  
16 frequency maximums, which vary by plant and turf types, are found on the labeled  
17 fertilizer bag or container.

18 1.2. Fertilizer containing nitrogen shall not be applied before seeding or  
19 sodding a site, and shall not be applied for the first 30 days after seeding or sodding,  
20 except when hydro-seeding for temporary or permanent erosion control in any  
21 emergency situation (wildfire, etc.), or in accordance with the Stormwater Pollution  
22 Prevention Plan for that site.

1           2.3. Nitrogen or phosphorus fertilizer shall not be applied to turf or landscape  
2 plants except as provided in section (1) above for turf, or in UF/IFAS recommendations  
3 for landscape plants, vegetable gardens, and fruit trees and shrubs, unless a soil or  
4 tissue deficiency has been verified by an approved test.

5           3.4. Fertilizer used for sports turf at golf courses shall be applied in accordance  
6 with the recommendations in “Best Management Practices for the Enhancement of  
7 Environmental Quality on Florida Golf Courses”, published by the Florida Department of  
8 Environmental Protection, dated January 2007, as may be amended. Fertilizer used at  
9 golf courses, parks and/or athletic fields shall be applied in accordance with Rule 5E-  
10 1.003(2)(d), Florida Administrative Code.

11  
12 **SECTION X. FERTILIZER APPLICATION PRACTICES:**

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

17           2. Fertilizer shall not be applied, spilled, or otherwise deposited on any  
18 impervious surfaces.

19           3. Any fertilizer applied, spilled, or deposited, either intentionally or  
20 accidentally, on any impervious surface shall be immediately and completely removed  
21 to the greatest extent practicable.

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

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

6           6. Property owners and managers are encouraged to use an Integrated Pest  
7 Management (IPM) strategy as currently recommended by the University of Florida  
8 Cooperative Extension Service publications.

9  
10 **SECTION XI. MANAGEMENT OF GRASS CLIPPINGS AND VEGETATIVE MATTER:**

11           In no case shall grass clippings, vegetative material, and/or vegetative debris  
12 intentionally be washed, swept, or blown on to or into stormwater drains, ditches,  
13 conveyances, water bodies, wetlands, sidewalks or roadways. Any material that is  
14 accidentally so deposited shall be immediately removed to the maximum extent  
15 practicable. Vegetative material may be placed within the roadway right-of-way, but not  
16 over the storm drains, for pickup by the City's Streets and Right-of-Ways Department  
17 and/or private waste haulers.

18  
19 **SECTION XII. EXEMPTIONS:**

20           The provisions set forth above in this Ordinance shall not apply to:

- 21           (a) bona fide farm operations as defined in the Florida Right-to-Farm Act,  
22 Section 823.14, Florida Statutes;

1 (b) other properties not subject to or covered under the Florida Right-to-Farm  
2 Act that have pastures used for grazing livestock;

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

6  
7 **SECTION XIII. TRAINING:**

8 1. All commercial and institutional applicators of fertilizer practicing within  
9 New Port Richey shall abide by and successfully complete the six-hour training program  
10 in the *“Florida-Friendly Best Management Practices for Protection of Water Resources*  
11 *by the Green Industries”* offered by the Florida Department of Environmental Protection  
12 through the University of Florida Extension Service *“Florida-Friendly Landscapes”*  
13 program, or an approved equivalent program.

14 2. Private, Non-commercial and non-institutional applicators not otherwise  
15 required to be certified, such as private citizens on their own residential property, are  
16 encouraged to follow the recommendations of the University of Florida IFAS *“Florida*  
17 *Yards and Neighborhoods”* program and label instructions when applying fertilizers.

18  
19 **SECTION XIV. LICENSING OF COMMERCIAL APPLICATORS:**

20 1. Prior to January 1, 2014, All commercial applicators of fertilizer within the  
21 incorporated area of New Port Richey, shall abide by and successfully complete the  
22 training program in the *“Florida-Friendly Best Management Practices for Protection of*  
23 *Water Resources by the Green Industries”* offered by the Florida Department of

1 Environmental Protection through the University of Florida Extension “Florida-Friendly  
2 Landscapes” program, or an approved equivalent, prior to obtaining a New Port Richey  
3 Local Business Tax Certificate for any category of occupation which may apply any  
4 fertilizer to turf and/or landscape plants. Commercial fertilizer applicators shall provide  
5 proof of completion of the program to the New Port Richey Tax Collector’s Office within  
6 180 days of the effective date of this Ordinance. It is the responsibility of the business  
7 owner to provide the “*Florida-Friendly Best Management Practices for Protection of*  
8 *Water Resources by the Green Industries*” certificate to receive their Business Tax  
9 Receipt annually.

10 | 2. ~~After December 31, 2013, A~~all commercial applicators of fertilizer within  
11 New Port Richey, shall have and carry in their possession at all times when applying  
12 fertilizer, evidence of certification by the Florida Department of Agriculture and  
13 Consumer Services as a Commercial Fertilizer Applicator per Rule 5E-14.117(18),  
14 Florida Administrative Code.

15 3. All businesses applying fertilizer to turf and/or landscape plants (including,  
16 but not limited to, residential lawns, golf courses, commercial properties and multi-family  
17 and condominium properties) must ensure that at least one (1) employee has an  
18 appropriate “*Florida-Friendly Best Management Practices for Protection of Water*  
19 *Resources by the Green Industries*” training certificate prior to the business owner  
20 obtaining a Local Business Tax Certificate.

21  
22 **SECTION XV. ENFORCEMENT:**

1 The provisions of this Ordinance shall be enforced by (1) the New Port Richey  
2 Code Enforcement Department pursuant to the authority granted by New Port Richey,  
3 (2) the New Port Richey City Council through its authority to enjoin and restrain any  
4 person violating this Ordinance, or (3) New Port Richey through the prosecution of  
5 violations in the name of the State of Florida pursuant to the authority granted by  
6 ~~Section 125.69 Chapter 162~~, Florida Statutes, as may be amended. The Code  
7 Enforcement Officer may pursue these or any other enforcement remedies available to  
8 and applicable to New Port Richey.

9  
10 **SECTION XVI. PENALTIES:**

- 11 1. Failure to comply with the requirement of this Ordinance shall constitute a  
12 violation of this Ordinance and shall be punishable by a fine not to exceed  
13 \$250 per incident per day the violation exists, or a fine not to exceed \$500 per  
14 incident per day the violation exists for a repeat violation, and, in addition,  
15 may include all costs of repairs and remediation including administrative  
16 costs.
- 17 2. In determining the amount of fines that should be imposed, ~~the Code~~  
18 ~~Enforcement Officer~~ a Special Magistrate, Code Enforcement Board, County  
19 Court or other City enforcement mechanism shall consider the following  
20 factors: (1) the gravity of the violation; (2) Any actions taken by the violator to  
21 correct the violation; and (3) Any previous violations committed by the  
22 violator. If ~~the Code Enforcement Officer~~ a Special Magistrate, Code  
23 Enforcement Board, County Court or other City enforcement mechanism finds

1 the violation is irreparable or irreversible in nature, a fine not to exceed  
2 \$15,000 per violation may be imposed.

- 3 3. Funds generated by penalties imposed under this Ordinance shall be used by  
4 New Port Richey for the administration and enforcement of Section 403.9337,  
5 Florida Statutes, and the corresponding Sections of this Ordinance, and to  
6 further water conservation and nonpoint pollution prevention activities.

7  
8  
9 **SECTION XVII. APPEAL:**

10 An aggrieved party, including New Port Richey, may appeal a final administrative  
11 order of a Special Magistrate, Code Enforcement Board, County Court or other City  
12 enforcement mechanism ~~Special Master~~ to the circuit court. Such an appeal shall not  
13 be a hearing de novo, but shall be limited to appellate review of the record created  
14 before the Special Magistrate, Code Enforcement Board, County Court or other City  
15 enforcement mechanism ~~Special Master~~. An appeal shall be filed within thirty (30) days  
16 of the execution of the order to be appealed.

17  
18 **SECTION XVIII. SEVERABILITY:**

19 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is  
20 for any reason held by a Court of competent jurisdiction to be unconstitutional,  
21 inoperative, or void, such holding shall not affect the remainder of this Ordinance.

22  
23 **SECTION XIX. INCLUSION IN THE CODE OF LAWS AND ORDINANCES:**

1           The provisions of this Ordinance shall become and be made a part of the New  
2 Port Richey Land Development Code. The sections of this Ordinance may be  
3 renumbered or re-lettered to accomplish such, and the word “ordinance” may be  
4 changed to “section”, “article”, or other appropriate word.

5  
6 **SECTION XX. CAPTIONS:**

7           The captions, section headings, and section designations used in this Ordinance  
8 are for convenience only and shall have no effect on the interpretation of the provisions  
9 of this Ordinance.

10  
11 **SECTION XXI. EFFECTIVE DATE:**

12  
13           The above and foregoing Ordinance was read and approved on first reading at a  
14 duly convened meeting of the City Council of the City of New Port Richey, Florida, the  
15 7<sup>th</sup> day of November, 201612.

16           The above and foregoing Ordinance was read and enacted on second reading at  
17 a duly convened meeting of the City Council of the City of New Port Richey, Florida, this  
18 20<sup>th</sup> day of November, 201612.

19  
20 CITY OF NEW PORT RICHEY, FLORIDA  
21  
22  
23  
24

25  
26 \_\_\_\_\_  
27 Rob Marlowe  
Mayor-Councilmember

1  
2  
3  
4  
5  
6  
7  
8  
9

ATTEST:

\_\_\_\_\_  
Doreen Summers, CAP-OM  
City Clerk

10  
11  
12  
13  
14

APPROVED AS TO LEGAL FORM AND CORRECTNESS:

By: \_\_\_\_\_  
Title: City Attorney