

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA;
ADDING A NEW SECTION 58-368 GOVERNING FERTILIZER USE
WITHIN THE CITY; ADOPTING THE ORANGE COUNTY
REGULATIONS PERTAINING TO FERTILIZER USE AND
AUTHORIZING COUNTY AND CITY ENFORCEMENT THEREOF
WITHIN THE CITY; PROVIDING FOR CODIFICATION,
SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.**

WHEREAS, the Winter Park City Code currently contains no comprehensive regulations pertaining to fertilizer use within the City; and

WHEREAS, as a result of impairment of the City's surface waters, groundwater, and springs caused by excessive nutrients, the City has determined that the improper use of fertilizers on land creates a risk of contributing to adverse effects on surface and groundwater.

WHEREAS, this Ordinance regulates the proper use and application of fertilizer, training requirements, and restricted application periods in the City; and

WHEREAS, the City finds that it is in the best interests of the health, safety, and welfare of the residents of Winter Park and the general public that the City adopt and authorize enforcement of the fertilizer regulations contained within the Orange County Code, Chapter 15, Article XVII, within the boundaries of the City; and

WHEREAS, a copy of the Orange County Code, Chapter 15, Article XVII is attached hereto as Exhibit "A."

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA:

SECTION 1. Recitals. The foregoing recitals are hereby ratified and confirmed as being true and correct and are hereby made a part of this Ordinance.

SECTION 2. City Code Amendment. Chapter 58, Article V, Division 11 of the City Code is hereby amended to add a new Section 58-368 thereof, as follows:

Sec. 58-368. – Fertilizer Regulations.

(a) Adoption of County Regulations by Reference. Chapter 15, Article XVII of the Orange County Code, as amended from time to time, governing fertilizer use shall apply within the boundaries of the City. Further amendments to Chapter 15, Article XVII of the Orange County Code shall be automatically incorporated into this section by reference unless the City Commission elects to opt out of such amendments by adopting a resolution or ordinance so stating. Orange County and relevant personnel and agents thereof shall have the authority to enforce and administer Chapter 15, Article XVII of the Orange County Code as incorporated herein within the boundaries of the City. The City and relevant personnel and agents thereof shall have the

authority to enforce and administer Chapter 15, Article XVII of the Orange County Code as incorporated herein within the boundaries of the City using any enforcement mechanism available under this section, other provisions of City Code, County Code, or by law. It shall be unlawful for any person to violate any provision of this section, or any provision of any resolution enacted pursuant to the authority of this section.

(b) City Enforcement. Every City code compliance or code enforcement officer is authorized to enforce the provisions of this section. Any person who violates any provision of this section, or any provision of any resolution enacted pursuant to the authority of this section, shall be subject to the following penalties if enforcement action is taken by the City or its employees or agents:

(1) First violation: Written notice and warning;

(2) Second violation: A second violation shall be a class I violation as provided in Chapter 1, Article II, code enforcement with a civil penalty of \$60.00 per violation paid to the City; however, commercial applicators shall be penalized as a class II violation as provided in Chapter 1, Article II, code enforcement with a civil penalty of \$100.00 per violation paid to the City.

(3) Third and subsequent violations: Successive repeated violations shall be a class IV penalty as provided in Chapter 1, Article II, code enforcement with a civil penalty of \$300.00 per violation paid to the City.

In addition to the enforcement provisions provided in subsection (b), the City may avail itself of any other legal or equitable remedy available to it, including but not limited to, injunctive relief or the initiation of code enforcement proceedings with the remedies as prescribed by Chapter 162, Florida Statutes, in the enforcement of any provision of this section or any provision of any resolution enacted pursuant to the authority of this section. Any person violating this section shall be held liable for all costs incurred by the city in connection with enforcing this section, or any resolution enacted pursuant to the authority of this section, including but not limited to, attorneys' fees and costs.

SECTION 3. Codification. Exhibit "A" to this Ordinance is Chapter 15, Article XVII of the Orange County Code incorporated by reference in Section 2 of this Ordinance. Section 2 of this Ordinance shall be incorporated into the Winter Park City Code. Any section, paragraph number, letter and/or any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical and similar or like errors may be corrected, and additions, alterations, and omissions not affecting the construction or meaning of this ordinance and the City Code may be freely made.

SECTION 4. Severability. If any section, subsection, sentence, clause, phrase, word or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 5. Conflicts. In the event of a conflict or conflicts between this Ordinance and any other ordinance or provision of law, this Ordinance controls to the extent of the conflict, as allowable under

the law.

SECTION 6. Effective date. This ordinance shall become effective immediately upon adoption by the City Commission of the City of Winter Park, Florida.

FIRST READING: _____, 2020

SECOND READING: _____, 2020

ADOPTED this ____ day of _____, 2020, by the City Commission of the City of Winter Park, Florida.

CITY COMMISSION
CITY OF WINTER PARK

Steve Leary, Mayor/Commissioner

ATTEST:

Rene Cranis, City Clerk