

# **TOWN OF PALM BEACH**

## **Information for Town Council Meeting on December 11, 2018**

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TO: Mayor and Town Council

VIA: Kirk W. Blouin, Town Manager

FROM: H. Paul Brazil, P.E., Director of Public Works

RE: Adoption of Fertilizer Control Ordinance  
**Ordinance No. 22-2018**

DATE: November 12, 2018

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### **STAFF RECOMMENDATION**

Town staff recommends that Town Council adopt Ordinance No. 22-2018 containing the use of fertilizer within the Town of Palm Beach.

### **GENERAL INFORMATION**

The National Pollutant Discharge Elimination System (NPDES) program, as authorized by the Clean Water Act, controls direct discharges into all navigable waters of the United States. Any facility that discharges into surface waters needs to obtain a permit through the NPDES program. The Town is part of the Northern Palm Beach County Improvement District's Municipal Separate Storm Sewer System (MS4) NPDES program which is comprised of 40 governmental entities in Palm Beach County. Under the MS4 NPDES permit certain conditions and effluent limitations have been established before discharge can be initiated.

Currently, there is concern about nutrients from fertilizers being discharged into the surface waters. Florida Statutes (403.9337) requires that municipal governments located within the watershed of a waterbody that is listed by the Florida Department of Environmental Protection (FDEP) as impaired for nutrients adopt a fertilizer control ordinance. Until recently, the Town was not required to adopt a fertilizer control ordinance. In the latest assessment, FDEP listed the Lake Worth Lagoon as impaired for nutrients, as such, the Town is now required to adopt a fertilizer ordinance.

Several model ordinances have been developed, including the FDEP's "Model Ordinance for Florida Friendly Fertilizer Use of Fertilizer on the Urban Landscape" and, a modified version of the model ordinance as developed by Palm Beach County. A typical fertilizer ordinance has provisions for the proper application, training, and licensing requirements for fertilizer usage.

The intent of the proposed fertilizer ordinances is to limit the runoff of nutrients into the Lake Worth Lagoon as a result of the application of fertilizers. The ordinance, once in place and enforced, will supplement ongoing efforts to minimize discharge of pollutants. A measure that the Town already has in place is the requirement for newly constructed projects to provide on-site retention of runoff from a two inch (2") rainfall. This allows for the runoff of light to moderate rainfall events to be retained on site, therefore, significantly reducing the amount of nutrient discharge into the Lake Worth Lagoon.

The State has also approved a Statute (FS 482.1562) that become effective this year. The Statute requires Best Management Practices Training and Certification for all commercial workers applying fertilizer on residential or commercial properties. This does not apply to individual property owner's applying fertilizer to their yard. The Statute is attached for your reference.

Staff recommends adopting the fertilizer ordinance to be in compliance with the State Statutes and the MS4 permit. All commercial applicators who engage in the maintenance of landscape will need to obtain a mandatory fertilization certification. Staff will need to conduct random site inspections with the residences and landscape contractors. In addition, staff will be required to enforce the ordinance and to issue fines for those in non-compliance.

On November 8, 2018, the Fertilizer Control Ordinance was brought before the Public Works Committee and it was recommended that the ordinance be presented at the December 11, 2018 Town Council Meeting for a first reading. Subsequent to the Public Works meeting, the draft ordinance was provided to all golf course managers within the Town of Palm Beach.

### **FUNDING/FISCAL IMPACT**

There is no funding/fiscal impact related to this item.

#### Attachment

cc: John C. Randolph, Town Attorney  
Joshua Martin, PZB Director  
Patricia Strayer, P.E., Town Engineer  
Jason Debrincat, P.E., Senior Project Engineer  
Jeffrey M. Sanon, P.E., Project Engineer  
Brett Madison, Facilities Maintenance Division Manager  
Benjamin Alma, Parking/Code Enforcement Manager