
WAKULLA COUNTY, FLORIDA

FERTILIZER USE ORDINANCE

ADOPTED, _____, 2010

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ORDINANCE NO. 2010-__

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF WAKULLA COUNTY, FLORIDA; RELATING TO FLORIDA FRIENDLY FERTILIZER USE WITHIN THE UNINCORPORATED AREAS OF WAKULLA COUNTY, FLORIDA; PROVIDING DEFINITIONS; PROVIDING CERTAIN FINDINGS, PURPOSE AND INTENT; PROVIDING APPLICABILITY; PROVIDING FOR THE TIMING OF FERTILIZER APPLICATIONS, FERTILIZER FREE ZONES, FERTILIZER CONTENT AND APPLICATION REQUIREMENTS; PROVIDING FOR MANAGEMENT OF VEGATIVE MATTER; OUTLINING CERTAIN EXEMPTIONS; REQUIRING TRAINING AND LICENSING; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 2009-199, Laws of Florida, provides that each county and municipality located within the watershed of a water body or water segment that is listed as impaired by nutrients pursuant to Section 403.067, Florida, shall adopt a model Ordinance for Florida-Friendly Fertilizer use on Urban Landscapes or an equivalent as a mechanism for protecting local surface and groundwater quality;

WHEREAS, the Florida Department of Environmental Protection has listed the Wakulla River and Springs as impaired by nutrients;

WHEREAS, as a result of impairment to the Wakulla River and Springs within Wakulla County caused by excessive nutrients, the Board of County Commissioners of Wakulla County has determined that the use of fertilizers on lands within the County creates a risk to contributing to adverse effects on surface and/or ground water and that adoption of the model ordinance on Florida-Friendly Fertilizer use on Urban Landscapes is required.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF WAKULLA COUNTY, FLORIDA:

SECTION 1. FINDINGS. The above recitals are found to be true and correct and are hereby incorporated herein by reference.

SECTION 2. PURPOSE AND INTENT.

(A) This Ordinance regulates the proper use of fertilizers by any Applicator; requires proper training of Commercial and Institutional Fertilizer Applicators; establishes training and licensing requirements; establishes a Prohibited Application Period; specifies allowable Fertilizer Application rates and methods, Fertilizer-Free Zones, low maintenance zones, and exemptions.

(B) The Ordinance requires the use of Best Management Practices which provide specific management guidelines to minimize negative secondary and cumulative environmental effects associated with the misuse of Fertilizers. These secondary and cumulative effects have been observed in and on Wakulla County's natural and constructed stormwater conveyances, rivers, creeks, canals, springs, lakes, estuaries and other water bodies. Collectively, these water bodies are an asset critical to the environmental, recreational, cultural and economic well-being of Wakulla County's residents and the health of the public. Overgrowth of algae and vegetation hinder the effectiveness of flood attenuation provided by natural and constructed stormwater conveyances. Regulation of nutrients, including both phosphorus and nitrogen contained in fertilizer, will help improve and maintain water and habitat quality within Wakulla County.

SECTION 3. DEFINITIONS. For this Ordinance, the following terms shall have the meaning set forth in this section unless the context clearly indicates otherwise.

"Administrator" means the County Administrator, or an administrative official of Wakulla County government designated by the County Administrator to administer and enforce the provisions of this Ordinance.

"Application" or **"Apply"** means the actual physical deposit of Fertilizer to Turf or Landscape Plants.

"Applicator" means any Person who applies Fertilizer on Turf and/or Landscape Plants in Wakulla County.

"Best Management Practices" means Turf and landscape practices 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.

"Board" means the Board of County Commissioners of Wakulla County, Florida.

"Code Enforcement Officer, Official, or Inspector" means any designated employee or agent of Wakulla County whose duty it is to enforce codes and ordinances enacted by Wakulla County.

"Commercial Fertilizer Applicator" means any Person who applies Fertilizer on Turf and/or Landscape Plants in Wakulla County in exchange for money, goods, services or other valuable consideration.

"Fertilize," "Fertilizing," or "Fertilization" means the act of applying Fertilizer to Turf, specialized Turf, or Landscape Plants.

"Fertilizer" means any substance or mixture of substances, except pesticide/fertilizer mixtures such as "weed and feed" products, 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.

"Fertilizer-Free Zone" means within ten (10) feet, or three (3) feet if a deflector shield or drop spreader is used, of any pond, stream, watercourse, lake, canal, or wetland, as defined by the Florida Department of Environmental Protection, or from the top of a seawall.

"Guaranteed Analysis" means the percentage of plant nutrients or measures of neutralizing capability claimed to be present in a Fertilizer.

"Heavy Rainfall" means a rain event greater than or equal to 50 mm (2 inches) in a 24-hour period, according to the World Meteorological Organization.

"Impervious Surface" means hard surfaced areas which either prevent or severely restrict the entry of water into the soil mantle and/or cause water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas and other surfaces which similarly affect the natural infiltration or runoff patterns which existed prior to development.

"Institutional Applicator" means any Person, other than a non-commercial or Commercial Fertilizer Applicator (unless such definitions also apply under the circumstances), that applies Fertilizer for the purpose of maintaining Turf and/or Landscape Plants. Institutional Applicators 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.

"Landscape Plant" means any native or exotic tree, shrub, or groundcover, but excluding Turf.

"Local Business Tax Receipt" means the document that is issued by the local governing authority and evidences that the person in whose name the document is issued has complied with the provisions of Chapter 205, Florida Statutes, relating to the local business tax.

"Low Maintenance Zone" means an area a minimum of six (6) feet wide adjacent to water courses which is planted and managed in order to minimize the need for Fertilization, watering, and mowing.

"Pasture" means land used for livestock grazing that is managed to provide feed value.

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

"Prohibited Application Period" means the time period during which a Flood Watch or Warning, or a Tropical Storm Watch or Warning, or a Hurricane Watch or Warning is in effect for any portion of Wakulla County, issued by the National Weather Service, or if Heavy Rainfall is likely.

"Slow Release," "Controlled Release," "Timed Release," "Slowly Available," or **"Water Insoluble Nitrogen"** means nitrogen in a form which delays its availability for plant uptake and use after application, or which extends its availability to the plant longer than a reference rapid or quick release product.

"Turf," "Sod," or **"Lawn"** means a piece of grass-covered soil held together by the roots of the grass.

"Wakulla County Approved Best Management Practices Training Program" means a training program approved by the Wakulla County Administrator that includes at a minimum, the most current version of the Florida Department of Environmental Protection's "Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries, 2008," as revised and any more stringent requirements set forth in this Ordinance.

SECTION 4. APPLICABILITY. This Ordinance shall be applicable to and shall regulate any and all Applications of Fertilizer and areas of Application of Fertilizer within the unincorporated area of Wakulla County, unless the Applicator is specifically exempted by the terms of this Ordinance from the regulatory provisions of this Ordinance. This Ordinance shall be prospective only, and shall not impair any existing contracts.

SECTION 5. TIMING OF FERTILIZER APPLICATION. No applicator shall apply Fertilizers containing nitrogen and/or phosphorus to Turf and/or Landscape Plants during a Prohibited Application Period.

SECTION 6. FERTILIZER-FREE ZONES.

(A) Except as provided in subparagraph (B) below, Fertilizer shall not be applied within any Fertilizer-Free Zone. If more stringent Wakulla County Code regulations apply, this provision does not relieve the requirement to adhere to the more stringent regulations.

(B) Newly planted Turf and Landscape Plants may be fertilized within a Fertilizer-Free Zone for the first sixty-(60) day establishment period, but caution shall be used to prevent direct deposition of nutrients into the water.

SECTION 7. FERTILIZER CONTENT AND APPLICATION RATES.

(A) Fertilizers applied to golf courses, parks, and athletic fields shall be formulated and applied in accordance with requirements and directions provided by Rule 5E-1.003(2)(d), Florida Administrative Code, as it may be amended.

(B) Fertilizers applied to Turf and Landscape Plants within Wakulla County shall be formulated and applied in accordance with requirements and directions provided by Rule 5E-1.003(2), Florida Administrative Code, *Labeling Requirements For Urban Turf Fertilizers*, as it may be amended.

(C) Nitrogen or phosphorus Fertilizer shall not be applied to Turf or Landscape Plants except as provided in (B) above unless a soil or tissue deficiency has been verified by an approved test.

SECTION 8. APPLICATION PRACTICES.

(A) Spreader deflector shields are required when Fertilizing via rotary (broadcast) spreaders. Deflectors must be positioned such that Fertilizer granules are deflected away from all Impervious Surfaces, any Fertilizer-Free Zones and water bodies, including wetlands.

(B) Fertilizer shall not be Applied, spilled, or otherwise deposited on any Impervious Surfaces.

(C) Any Fertilizer Applied, spilled, or deposited, either intentionally or accidentally, on any Impervious Surface shall be immediately and completely removed to the greatest extent practicable.

(d) Fertilizer released on an Impervious Surface must be immediately contained and either legally applied to Turf or any other legal site, or returned to the original or other appropriate container.

(e) In no case shall Fertilizer be washed, swept, or blown off Impervious Surfaces into stormwater drains, ditches, conveyances, or water bodies, including wetlands.

SECTION 9. MANAGEMENT OF GRASS CLIPPINGS AND VEGETATIVE MATTER. In no case shall grass clippings, vegetative material and/or vegetative debris either intentionally or accidentally, be washed, swept, or blown off into stormwater drains, ditches, conveyances, water bodies, wetlands, or sidewalks or roadways.

SECTION 10. EXEMPTIONS. The provisions set forth herein shall not apply to:

(A) Bona fide farm operations as defined in the Florida Right to Farm Act, Section 823.14, Florida Statutes, as it may be amended, provided that Fertilizers are applied in accordance with the appropriate Best Management Practices manual adopted by the Florida Department of Agriculture and Consumer Services, Office of Agricultural Water Policy for the crop in question.

(B) Other properties not subject to or covered under the Florida Right to Farm Act that have Pastures used for grazing livestock provided that Fertilizers are applied in accordance with the appropriate Best Management Practices manual adopted by the Florida Department of Agriculture and Consumer Services, Office of Agricultural Water Policy for the crop in question.

SECTION 11. TRAINING.

(A) All Commercial and Institutional Applicators of Fertilizer within the County, shall abide by and successfully complete the six-hour training program in the "Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries" offered by the Florida Department of Environmental Protection through the University of Florida Extension "Florida-Friendly Landscapes" program.

(B) Non-commercial Applicators not otherwise required to be certified, such as private citizens on their own residential property, are encouraged to follow the recommendations of the University of Florida IFAS Florida Yards and Neighborhoods program when applying fertilizers.

SECTION 12. LICENSING OF COMMERCIAL APPLICATORS.

(A) All Commercial Applicators of Fertilizer within the County shall abide by and successfully complete training and continuing education requirements in the *"Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries,"* offered by the Florida Department of Environmental Protection through the University of Florida IFAS "Florida-Friendly Landscapes" program, prior to obtaining a Wakulla County Local Business Tax Receipt for any category of occupation which may apply any Fertilizer to Turf and/or Landscape Plants.

(B) Commercial Fertilizer Applicators shall provide proof of completion of the program to the Wakulla County Tax Collector's office within 180 days of the effective date of this Ordinance.

(C) All businesses applying Fertilizer to Turf and/or Landscape Plants (including but not limited to residential lawns, golf courses, commercial properties, and multi-family and condominium properties) must ensure that at least one employee has an appropriate *"Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries"* training certificate prior to the business owner obtaining a Local Business Tax Certificate. Owners for any category of occupation which may apply any fertilizer to Turf and/or Landscape Plants shall provide proof of completion of the program to the Wakulla County Tax Collector's Office.

SECTION 13. SEVERABILITY. The provisions of this Ordinance are severable; and if any section, subsection, sentence, clause or provision is held invalid by any court of competent jurisdiction, the remaining provisions of this Ordinance shall not be affected thereby.

SECTION 14. EFFECTIVE DATE. A certified copy of this Ordinance shall be filed in the Department of State within ten (10) days after enactment by the Board and the Ordinance shall take effect as provided by law.

PASSED AND DULY ADOPTED this _____ day of _____, 2010.

BOARD OF COUNTY COMMISSIONERS
OF WAKULLA COUNTY, FLORIDA

By: _____
HOWARD KESSLER, Chair

ATTEST:

BRENT X. THURMOND, Ex Officio
Clerk to the Board

APPROVED AS TO FORM:

Heather Encinosa, Esq.
County Attorney