Proposed Polk County Fertilizer Management Ordinance

March 19, 2013
Legal Requirements

- State law requires Polk County to adopt a Fertilizer Management Ordinance.

- Polk County’s NPDES MS4 Permit requires this the County to adopt it within 24 months of Permit Issuance.

- A proposed ordinance has been drafted to mimic the State approved Model Fertilizer Management Ordinance.
### STORMWATER MANAGEMENT PROGRAM:


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<th>PERMITTEE</th>
<th>ACTIVITY</th>
<th>REPORTING REQUIREMENT</th>
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<td>ALL Except FDOT District One and FDOT Florida’s Turnpike Enterprise</td>
<td>Pursuant to SB 2080 (2009), all local governments are encouraged to adopt a Florida-friendly Landscaping Ordinance similar to the one set forth in the document “Florida-friendly Guidance Models for Ordinances, Covenants and Restrictions.” This model ordinance incorporates Florida-friendly landscaping and irrigation design requirements, Florida-friendly fertilizer requirements, and training and certification requirements. If the broader Florida-friendly ordinance described above is not adopted, then all local governments within the watershed of a nutrient-impaired water body shall adopt the Department’s Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes pursuant to SB 494 (2009) or an ordinance that includes all of the requirements set forth in the Model Ordinance. The ordinance shall be adopted within 24 months of the date of permit issuance.</td>
<td>Provide a copy of the adopted ordinance with the subsequent Year 1 or Year 2 ANNUAL REPORT.</td>
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Each county and municipal government located within the watershed of a water body or water segment that is listed as impaired by nutrients pursuant to s. 403.067, shall, at a minimum, adopt the department’s Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes. A local government may adopt additional or more stringent standards than the model ordinance if the following criteria are met:

(a) The local government has demonstrated, as part of a comprehensive program to address nonpoint sources of nutrient pollution which is science-based, and economically and technically feasible, that additional or more stringent standards than the model ordinance are necessary in order to adequately address urban fertilizer contributions to nonpoint source nutrient loading to a water body.
(b) The local government documents that it has considered all relevant scientific information, including input from the department, the institute, the Department of Agriculture and Consumer Services, and the University of Florida Institute of Food and Agricultural Sciences, if provided, on the need for additional or more stringent provisions to address fertilizer use as a contributor to water quality degradation. All documentation must become part of the public record before adoption of the additional or more stringent criteria.

This section does not apply to the use of fertilizer on farm operations as defined in s. 823.14 or on lands classified as agricultural lands pursuant to s. 193.461.
SECTION 1-2 FINDING OF FACTS:

Improper fertilization practices contribute excess nitrogen and phosphorus to Polk County’s water bodies through the drainage conveyances that regulate the flow of stormwater to prevent flooding.

This reduces the drainage conveyances capacity to provide flood protection from the overgrowth of vegetation.
SECTION 2-1 DEFINITIONS:

A. Commercial Applicator, except as provided in 482.1562(9) F.S., means any person who applies fertilizer for payment or other consideration to property not owned by the person or firm applying the fertilizer or the employer of the applicator.

B. Institutional Applicator shall include but not be limited to, owners, manager, or employees of public lands, schools, parks, religious institutions, utilities, industrial or business sites, and any residential properties maintained in condominium and/or common ownership.

C. Private Non-commercial Applicator means a person applying fertilizer to their own residence, or that of another, without financial gain.
SECTION 3-3 FERTILIZER-FREE ZONES:

(a) No fertilizer shall be applied within ten (10) feet of any lake, pond, stream, water body, water course, canal, or wetland.

(b) No fertilizer shall be deposited, washed, swept, or blown off intentionally or inadvertently onto any impervious surface, public right-of-way, public property, stormwater drain, ditch or other stormwater conveyance, or directly to a water body.

(c) A low-maintenance zone is strongly recommended, though not required, for all areas within ten (10) feet of the water’s edge of any lake, pond, stream, water body, water course or canal, or any wetland.
SECTION 3-5  GRASS CLIPPINGS AND VEGETATIVE DEBRIS:

In no case shall grass clippings, vegetative material, and/or vegetative debris be washed, swept, or blown off into stormwater drains, ditches, conveyances, water bodies, wetlands, or sidewalks or roadways.

Any material that is accidently so deposited shall be immediately removed to the extent reasonably possible.
SECTION 4-1 TRAINING REQUIREMENTS

(a) All Commercial and Institutional Applicators of fertilizer 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”

(b) Private Non-commercial Applicators are encouraged to follow the recommendations of the University of Florida IFAS Florida Yards and Neighborhoods program when applying fertilizers.
SECTION 4-2 CERTIFICATION OF COMMERCIAL APPLICATORS:

(a) Prior to January 1, 2014, all Commercial Applicators shall obtain and maintain certification by successfully completing training and continuing education requirements in the “Florida Friendly Best Management Practices for Protection of Florida Water Resources by the Green Industries”.

(b) All businesses applying fertilizer to turf and landscape plants on their own property must ensure that at least one employee has a “Florida Friendly Best Management Practices for Protection of Florida Water Resources by the Green Industries” training certificate.

(c) After December 31, 2013, all Commercial Applicators of fertilizer shall have a Florida Department of Agriculture and Consumer Services Limited Certification for Urban Landscape Commercial Fertilizer when in the possession of fertilizer.
SECTION 5-2 EXEMPTIONS:

(a) Section 3-2 of this article shall not apply to golf courses; provided, however, fertilizer shall not be applied to golf courses in excess of the provisions of the Florida Department of Environmental Protection (“FDEP”) document, *BMPs for the Enhancement of Environmental Quality on Florida Golf Courses, January 2007.*

(b) This Ordinance shall not apply to sports turf areas at parks and athletic fields for which fertilizer is applied in accordance with the applicable provisions of Rule 5E-1.003(2)(d) FAC.

(c) This Ordinance shall not apply to any bona fide farm operation as defined in the Florida Right to Farm Act, Sec. 823.14, *et seq.*, Florida Statutes (2007).

(d) This Ordinance shall not apply to any lands classified as agricultural lands pursuant to Section 193.461 Florida Statutes, including without limitation, other properties not subject to or covered under the Florida Right to Farm Act that have pastures used for grazing livestock.

(e) This Ordinance shall not apply to any lands used for bona fide scientific research, including, but not limited to, research on the effects of fertilizer use on urban stormwater, water quality, agronomics, or horticulture.
SECTION 6-1 ENFORCEMENT:

Nothing contained herein shall prevent Polk County or a municipality from taking such other lawful action in law and equity as may be necessary to remedy any violation of any part of this Ordinance, including but not limited to:

1. Pursuit of injunction and/or declaratory relief in a court of competent jurisdiction;

2. Utilizing any other action or enforcement method permitted by law; or

3. Prosecution as a misdemeanor with a fine not exceeding Five Hundred Dollars ($500.00) or by imprisonment for a term not exceeding sixty (60) days or by both fine and imprisonment.
Conclusions

• Improper use of fertilizers results in increased levels of nutrients in stormwater runoff.

• Excessive levels of nutrients in surface waters result in algal blooms and the deterioration of lake and stream water quality.

• The proposed ordinance meets the requirements of the County’s NPDES Permit and state law.

• To encourage consistency, the ordinance is county wide, but can be overridden by municipalities should they desire to do so.

• While the ordinance includes enforcement mechanisms, it is anticipated that education will be the key component of this endeavor.
Questions?