

# Stakeholder Comments, Fertilizer Management Ordinance

Last updated 12/13/2021 EPD staff

Code Section	Proposed change	Comments
<b>Preamble</b>		
	<u>In order to protect Orange County's surface waters, groundwater, and springs from excessive nutrients, the board hereby creates an ordinance that regulates the use and application of fertilizer, training requirements, and a prohibited fertilizer application period in the county. As a result of impairment to Orange County's surface waters caused by excessive nutrients, or, as a result of increasing levels of nitrogen in the surface or ground water within the aquifers or springs within the boundaries of the county, the board has determined that the use of fertilizers on lands within the county creates a risk of contributing to adverse effects on surface or ground water and finds that additional management measures are required by this ordinance.</u>	<p>In the water Atlas, how many water bodies are marked "impaired"? when you say multiple impairments, I am assuming that it would be Phosphorus first and Nitrogen second, what are the others? Do you have a percentage? 104 out of how many lakes? Does that include city limits or just the county?</p> <p>At the general election on November 3, 2020, the people of Orange County amended the Charter of Orange County by approving Ballot Proposal Question # 1, "Prohibiting Pollution of the Wekiva River, Econlockhatchee River and all other waters of Orange County," creating Section 704.1 of the Charter. Section 704.1(A) provides that all citizens of Orange County have a right to clean water, and that the Wekiva River and the Econlockhatchee River (as well as all waters in Orange County) possesses the legal right to exist, flow, be protected from pollution, and maintain a healthy ecosystem. As such, this fertilizer ordinance shall govern all unincorporated properties within Orange County and well as all municipalities within the County unless said municipalities provide protections against water pollution that are more protective of water quality than this ordinance.</p> <p>Like Pinellas County's Fertilizer Ordinance</p>
<b>15-801 Definitions</b>		
	<u>Code enforcement officer</u> means any designated employee or agent of Orange County, Florida authorized to enforce codes and ordinances enacted by Orange County.	
	<u>Fertilizer</u> means any substance or mixture of substances, <del>excluding pesticides, organic composts, and fertilizer derived from biosolids,</del> that contains one (1) 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.	<p>Should this definition be more specific regarding nitrogen and phosphorous compounds? To say that something controls acidity or alkalinity seems redundant. Why are those controlled?</p> <p>Compost should be encouraged not banned from being applied to lawns. It creates and helps maintain healthy soils. It increases natural microbiology and increases water holding capacity of our sandy soil.</p>
	<u>Institutional applicator</u> means any person other than a private, non-commercial or a commercial applicator (unless such definitions also apply under the circumstances), that applies fertilizer for the purpose of maintaining turf or landscape plants. Institutional applicator shall include, but not be limited to, owners, managers or employees of public lands, schools, parks, religious institutions, utilities, industrial or business sites, and any residential properties maintained in condominium or common ownership.	"Institutional" applicator- does this ordinance basically only apply to subdivision residents? Is HOA common ownership?
	<u>Landscape plants</u> means any shrub, tree, or groundcover(excluding turf).	Ground cover definition was deleted so should remain
	<u>Urban landscape</u> means pervious areas on residential, commercial, industrial, institutional, highway rights-of-way, or other nonagricultural lands that are planted with turf or horticultural plants. For the purposes of this article, agriculture has the same meaning as in section 570.02, F.S.	<p>Urban landscape defined and paragraphs relating to the reference have been proposed for deletion.</p> <p>Suggest providing a definition of horticultural plants</p>
<b>15-802 Applicability and notice of requirements.</b>		
	<u>(b) Any business that sells fertilizer shall prominently display, at the point of distribution, post a notice to customers that the use of lawn and landscape fertilizers in the count is restricted in accordance with this article. This notice shall be provided by the count stating that the use of lawn and landscape fertilizers in the county is restricted in accordance with this chapter.</u>	<p>Please consider prohibiting all retail fertilizer sales during our rainy season. I understand Pinellas, Hillsborough, and others around Florida require all retailers (Home Depot, Lowes, Walmart, etc) to remove fertilizer from their shelves during our rainy season. They've reported improved conditions in Tampa Bay and their counties' lakes since they enacted the ban. Why doesn't Orange County have a similar ban? I've asked my friends and neighbors, and most of them have no idea it's illegal for homeowners to apply fertilizer during the rainy season. I'm sure most folks shopping at the big box stores also have no clue about our fertilizer ordinance, and there are probably thousands of pounds of fertilizer being applied by homeowners all summer long. I also think allowing "trained" commercial applicators to apply fertilizer during our rainy season is a ridiculous loophole. It doesn't take a PhD or a million dollar study to know that commercially applied fertilizer will run off into our lakes just as quickly as fertilizer applied by homeowners.</p> <p>The best way to stop homeowners from applying fertilizer during our rainy season is to simply not allow retailers to sell it.</p>

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		<p>Under 15-802 (b) can you explain what the notices say that are required for retailers? Does it address the “why” this is important to follow? I ask this because many of our residents do not know how fertilizer affects water systems. They may be likely to comply if the messaging clearly defines the negative impacts of nitrogen and phosphorus use.</p> <p>Especially as it relates to water....like people who are specifically interested on manatees, and Apopka, because they've grown up there,...are you all addressing those types issues and emotional responses that we know can trigger behavioral responses?</p> <p>The smartest thing you all can do is take fertilizer off the shelves in the summertime so residential homeowners cannot get it.</p> <p>If you can't stop fertilizer from being sold in the big box stores or hardware stores during the blackout period you're proposing, does that also mean you're not going to be able to look at a fertilizer that does not meet the 65%?</p> <p>(fix spelling) COUNTY not COUNT</p>
<b>15-803 Timing of fertilizer application. Weather and seasonal restricts.</b>		
	<p><del>(a) No fertilizer containing nitrogen or phosphorus shall be applied to turf or landscape plants during a period for which the National Weather Service has issued any of the following advisories for any portion [of] the county: a severe thunderstorm warning or watch, flood warning or watch, tropical storm warning or watch, or hurricane warning or watch. No applicator shall apply fertilizer containing nitrogen or phosphorus to turf or landscape plants during the prohibited application period or to saturated soils.</del></p>	<p>This provision could limit the application where rain is forecasted, but no precipitation occurs – which happens quite often. Forecasted rain is listed or communicated as a percentage of precipitation in a viewing area, which is generally a very large area. You could be a commercial applicator in Clermont and no rain occurs, but is forecasted for the viewing area which stretches west to Cocoa Beach. Cocoa gets 2” of rain, and Clermont is bone dry. Following the rule, the commercial business is unable to work when conditions are favorable.</p>
	<p><del>(b) No person, except applicators certified pursuant to section 15-809 herein, shall apply fertilizer containing nitrogen or phosphorus to turf or landscape plants during the restricted season from June 1 through September 30.</del></p>	<p>New lawns don't have an exception during blackout period and need one</p> <p>Please make sure to maintain the strict, no exemption, rainy season ban. The elimination of the language which exempted certified applicatns pursuant to 15-809 made the 2017 ordinance impossible to enforce and created egregious loop holes. This is a welcome change &amp; update</p> <p>Blackout period is not necessary when restricting quick release to 1/3. I have a lot to say on this.</p> <p>Commercial applicators “certified” with visible proof if proper education should be able to apply Blackout compliant Micronutrients and pesticide only when necessary. This is to maintain commercial accounts.</p> <p>The way its worded it's like we can't do anything for those 3 months.</p> <p>In most counties in Florida that have gone to a blackout period, they've actually found the negative result because the homeowners would put out more on the front end thinking they need to and then extra on the back end thinking they've got to catch up, and the grass has been stressed in the middle. The only way it's taking up nutrients is through a healthy root zone, if you stress that root zone, you're not going to have the uptake, you're just then going to then have higher leachate into those zones</p> <p>Compost has nitrogen and phosphorus in it and if you stick to your rule there, you've eliminated the use of it</p> <p>In my experience, working in this industry for 25 years, and experiencing blackout periods, the homeowners that I do service for, say hey, it's summertime, you're not putting any fertilizer out, I know about the blackout period, I'll put it out myself...unexperienced untrained people putting out the wrong fertilizer and you're making the problem worse</p> <p>I think grass, turf, plants, need to be fed when they're growing and their growing season is in the summertime, and that's when the root system is the deepest, and that's when the plants take up the most nutrients and there isn't a leaching issue. In fact, Dr. Trenholm, Dr. Unruh, and Dr. Shaddox all have studies that prove that. And there's still an ongoing study going on at Citrus Research Facility that is still showing the same results</p> <p>There is no summer blend like you just talked about available to homeowners unless they have a spraying system because there is no granular</p> <p>Suggest adding "during the prohibited application period, defined as" June...</p>
	<p><del>(c) Fertilizer containing nitrogen shall not be applied before seeding or sodding a site, and shall not be applied for the first thirty (30) days after seeding or sodding, except when hydro-seeding for temporary or permanent erosion control in an emergency situation (e.g., wildfire), or in accordance with the Stormwater Pollution Prevention Plan for that site.</del></p>	<p>Don't put fertilizer on a new lawn, well that new lawn's gonna get installed in summer, yes it's going to be raining, and yes it has nitrogen, but when you're out there in the real world, if you don't get some fertilizer on that new grass in the first two or three weeks, because typically the property has been let go, there's no nutrients left in the soil or it's a brand new structure, you don't do something with it, the grass is gonna decline.</p> <p>The phosphorous exception noted in Sec. 15-804(b) needs to be included here. Corrective preplant application of phosphorus, when deficient, is imperative. Correcting a P deficiency after establishment is substantially harder and requires increased P addition.</p> <p>Suggest providing a definition for hydro-seeding</p>
<b>15-804 Fertilizer content; application rate.</b>		
	<p><del>(b) No fertilizer containing phosphorus shall be applied to any turf or landscape plants. Provided, however, except where a phosphorus deficiency has been demonstrated in the soil by a soil analysis test</del></p>	<p>Where did this application rate come from? What form of phosphorous? Or is it as “total phosphorous”?</p> <p>Demonstrate to change the rate, except for 15-803(b). Confirming exception for rate but not the timing</p> <p>You can't have a set number of phosphorus. We have way too many soil types, I don't even know how many soil types in Florida we have, and they're not the same.</p>

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	performed by a laboratory using University of Florida's Institute of Food and Agricultural Sciences ("UF/IFAS") approved methodology, <del>phosphorus</del> <u>If a deficiency is demonstrated, phosphorus</u> may then be applied at a rate no greater than one-quarter (0.25) of one (1) pound of phosphorus per one thousand (1,000) square feet per application, not to exceed one-half (0.5) pound of phosphorus per one thousand (1,000) square feet per year. Any person who obtains such a soil analysis test showing a phosphorus deficiency <del>may apply phosphorus and</del> shall provide the test results to the Orange County Environmental Protection Division, Attention: Manager within thirty (30) days of receipt of results-	Suggest providing guidance on length of application after results.
(c)	No fertilizer containing nitrogen shall be applied unless at least <del>forty (40)</del> <del>sixty-five (65)</del> percent of its nitrogen content is slow release as indicated on the Guaranteed Analysis label, <del>with no more than one (1) pound total nitrogen per one thousand (1,000) square feet of area per application not to exceed two (2) pounds of nitrogen per one thousand (1,000) square feet per year. This requirement shall change to at least sixty-five (65) percent slow release if the product is readily available on the local commercial market by July 1, 2020.</del>	<p>Is this allowed all year? Seems like a possible loophole.</p> <p>Is this also as total nitrogen?</p> <p>UF research recommends between 2-5 lbs n/year for St. Augustine Grass in Central FL. Can we compromise at 3-4? 2 lbs is a minimum and not enough for healthy turf in most cases.</p> <p>for Sec. 15-804 ( C): Please consider adding language that also adds limits per application. A suggestion might be "no more than one-half pound of nitrogen per 1,000 square feet area per application of fertilizer"</p> <p>If the proposed ordinance permits 1/3 lb. of quick release N when combined work 2/3 slow release, why can't 1/3 lb be applied by itself?</p> <p>Spot application of Nitrogen should be allowed over the broadcast application limit of 2 lbs per 1000 square feet per year. This would be consistent with insecticide spot treatments.</p> <p>Reducing the maximum application limit to 2-4 lbs./yr. will put OC in first place as the most prohibitive of the counties listed. Miami-Dade and Pinellas are at 4 lbs./yr. and the remainder have no maximum. It was mentioned that this component might come with significant resistance, meaning to me the probability of successful implementation could be jeopardized. One strategy might be to equal the 4 lbs. the others are doing to not be the lowest. To me "No Max" to something is a win, especially if it can cross the finish line.</p> <p>What makes sense about not putting fertilizer out in September? So consequently, we're in a zone that still gets fairly cold weather and it's not uncommon for it to get cold in November, so as a company, I am locked in to having to put fertilizer to catch the growing season on turf and shrubs all in the month of October. So now you don't want fertilizer out there now you have a whole lot of it on the ground all at one time, but if I try to put it on the ground in November, some of it, I may get a frost on that new growth or even a freeze.</p> <p>Please provide published evidence that a 65% SRN is more protective of water impairment than 30% or 50%, etc. This [application] rate is likely to create substantial problems on newly established landscapes that are void of organic matter.</p> <p>...shall be applied by a commercial, institutional or residential user?</p>
(d)	Where reclaimed water is available for irrigation, the <u>fertilizer application rates herein shall be reduced based on the nitrogen or phosphorus content of the water provided by the reclaimed water provider.</u>	<p>How is the N and P content of reclaimed water determined and when?</p> <p>If customer has reclaimed water, no more nitrogen is needed from fertilizer assuming an irrigation rate of 1 inch/week and 3 mg/L Total Nitrogen (yields 0.8 lbs/year/1,000sf).</p> <p>Sec.15-804 (g) indicates that application rates shall be reduced based on the nutrient content of reclaimed water. However, I don't see any other information on the document that clearly guides applicators on how to make that determination.</p> <p>This is good. Suggest providing guidance on how to do this or ensure guidance is included in the the training since how to do this may not be intuitive.</p>
(e)	Nitrogen or phosphorus fertilizer may be applied to vegetable gardens or fruit trees as provided in UF/IFAS recommendations for vegetable gardens and fruit trees.	<p>P 6 line 208- what about other edible crops? (berries, grape vine, pineapple). Change "fruit trees" to "edible crops"</p> <p>Are these UF/IFAS recommendations (vegetable gardens and fruit trees) valid whereas the Urban Turf recommendations are not? Sec. 15-804(e) is not consistent with UF/IFAS recommendations.</p> <p>may be applied when?</p> <p>Specifically on lines 208, 234, 306. we suggest that broadcast spreaders must be used for fertilizer application and state it clearly in the ordinance rather than a reader having to find and delve deep into an IFAS publication mentioned later on in the draft ordinance. Also, this draft document focuses on slow release fertilizers which are in a solid form. In one subsection we noted that there is a loop hole because the draft ordinance refers to IFAS pubs that speak of soluble fertilizers for gardens and fruit trees. Some peoples "gardens" are pretty expansive and spraying miracle grow on 25% of your property defeats the purpose. Just seems like a small loop hole to get around slow release. Maybe we are just sustainable nuts, but those are our two cents for the draft document. We believe this draft provides Orange County a solid foundation to move forward with into the future.</p>
<b>15-805 Fertilizer-free zones.</b>		
(a)	No fertilizer shall be applied within <del>fifteen (15)</del> <del>twenty-five (25)</del> feet of any wetland or surface waters, including but not limited to a lake, pond, stream, water body, water course, or canal.	<p>Does this include stormwater ponds?</p> <p>25 ft restriction for bodies of water excessive. No exceptions for seawalls (barriers).</p> <p>sec 15-805 ( a): Please consider adding language such as "from the top of a bank" &amp; "landward edge of the top of a seawall" &amp; add "wetland as defined by FDEP (Chapter 62-340, FL Administrative Code, as it may be amended or superseded."</p> <p>I spend weekends hosting lake cleanups. We have seen a significant decline in water quality. This is happening all over Orange County. I think the setback should be 50 ft. Some of the water issues are so bad that it is impacting property values on certain lakes.</p> <p>15 or 10 ft, 25 ft, if you start backing off with that, what we'd have I think, I was teaching this class before is that 10 ft was a good zone that they had. Once you start not taking care of that additional 15 feet, you're going to start losing the root zone, which is what keeps the stuff from leaching into the waterbody</p>

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		<p>Please provide published evidence that 25' fertilizer-free buffer is more protective of water impairment than 15' or any other distance. Additionally, provide evidence showing the impact of the lack of plant fertility on loss of plant density and resultant soil erosion losses are lake bank destabilization.</p> <p>I really do think we should do a greater set back than 25 ft from a body of water with application of fertilizer. Anything is better than what we currently have though.</p> <p>Suggest providing definitions of wetlands and surface waters</p>
(b)	<p>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, conveyance, or water body. 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. Fertilizer released on an impervious surface must be immediately contained and either legally applied to turf or landscape plants or any other legal site, or returned to the original or other appropriate container.</p>	<p>Suggest defining impervious surface</p>
(c)	<p>A low-maintenance zone is strongly recommended, though not required, for all areas within ten (10) feet of the normal high water elevation of any lake, pond, stream, water body, water course or canal, or any wetland, excluding permitted stormwater ponds. Low-maintenance zones should be planted and managed in such a way as to minimize the need for watering, mowing, and other active maintenance. No mowed or cut vegetative material may be deposited or left remaining in this zone or deposited in the water. Care should be taken to prevent over-spray of aquatic weed control products in this zone.</p>	<p>The low-maintenance zone should require only native planters.</p> <p>Can we adjust Sec. 15-805 (c) lines 228-230, specify "native plants"</p> <p>Could we consider changing the low-maintenance to Florida-Friendly?</p>
<b>15-806 Mode of Application</b>		
	<p>Broadcast spreaders applying fertilizers must be equipped with deflector shields positioned to deflect fertilizer from all impervious 236 surfaces, rights-of-way, stormwater drains, ditches, conveyances, and water bodies.</p>	<p>Specifically on lines 208, 234, 306. we suggest that broadcast spreaders must be used for fertilizer application and state it clearly in the ordinance rather than a reader having to find and delve deep into an IFAS publication mentioned later on in the draft ordinance. Also, this draft document focuses on slow release fertilizers which are in a solid form. In one subsection we noted that there is a loop hole because the draft ordinance refers to IFAS pubs that speak of soluble fertilizers for gardens and fruit trees. Some peoples "gardens" are pretty expansive and spraying miracle grow on 25% of your property defeats the purpose. Just seems like a small loop hole to get around slow release. Maybe we are just sustainable nuts, but those are our two cents for the draft document. We believe this draft provides Orange County a solid foundation to move forward with into the future.</p> <p>This is a little confusing, given the 25 feet requirement. Is the deflector shield used to prevent entry into the 25 foot area?</p>
<b>15-807 Grass clippings and vegetative material or debris.</b>		
	<p>Grass clippings <del>and</del> vegetative material <del>or</del> debris shall not be deposited, washed, swept, or blown off, intentionally or inadvertently, onto any impervious surface, public right-of-way, stormwater drain, ditch, conveyance, or water body. <u>Any material or debris that is deposited into or that may block stormwater infrastructure shall be immediately removed to the maximum extent practicable.</u></p>	<p>Does this include storm water ponds?</p>
<b>15-808 Exemptions; exceptions.</b>		
(a)	<p>Sections 15-805 through 15-810 of this article shall not apply to golf courses; provided, however, fertilizer shall not be applied to golf courses in excess of the provisions set forth in <del>rule</del> <u>Rule 5E-1.003(3), F.A.C., as it may be amended, and golf courses follow the most current version of the FDEP Best Management Practices for the Enhancement of Environmental Quality on Florida Golf Courses.</u></p>	<p>Should apply to golf courses because amount of application?</p> <p>Fertilizers that contain zero nitrogen and zero phosphorus are exempt from this ordinance. (compare to urban turf rule for appropriate wording)</p> <p>[recommend inserting the following text at the end of the last line:] Golf Course BMP Certification Program: <a href="https://ifas-turfgrass.catalog.instructure.com/courses/florida-golf-course-best-management-practices-certification-training-2020-21">https://ifas-turfgrass.catalog.instructure.com/courses/florida-golf-course-best-management-practices-certification-training-2020-21</a></p> <p>no fruit tree and veggie garden exemption?</p>
(c)	<p>This article shall not apply to properties that have pastures used for grazing livestock but are not subject to or covered under the Florida Right to Farm Act.</p>	<p>Consider changing "livestock but are . . ." to "livestock that are . . ."</p>

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(d)	<u>This article 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.</u>	Consider defining "bona fide" scientific research
(e)	This article shall not apply to sports turf areas at parks and athletic fields.	Sec.15-808 (e) provides an exemption for turf areas at parks an athletic fields. My concern here is the perception that we are exempting ourselves (Parks). I'm not sure if those turf areas can or cannot be managed within the restrictions of the ordinance but it may be worth revisiting. Ultimately, we want to lead by example. Consider adding language similar to Lee County's Ordinance 08.08-9.C: When performing landscaping on all other specialized turf, Specialized Turf Managers shall use their best professional judgment to apply the concepts and principles embodied in the Florida Green BMPs, while maintaining the health and function of their Specialized Turf areas.  What would an athletic area be?
<b>15-809 Training requirements; proof of compliance.</b>		
(a)	<u>All commercial and institutional applicators within Orange County, shall abide by and successfully complete the six-hour 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 UF/IFAS "Florida-Friendly Landscaping" program.</u>	How does this item get enforced? You refer to IFAS + UF why do you have to require more than GI-BMP? Look at Tampa- no change from blackouts P. 8 line 294. Landscaping should have TM trademark. Are annual bedding plants exempt? What fertilizer education is given to institutional applicators who may not have professional training? [recommend inserting the following text at the end of the last line:] Golf Course BMP Certification Program: <a href="https://ifas-turfgrass.catalog.instructure.com/courses/florida-golf-course-best-management-practices-certification-training-2020-21">https://ifas-turfgrass.catalog.instructure.com/courses/florida-golf-course-best-management-practices-certification-training-2020-21</a>  UF/IFAS "Florida-Friendly Landscaping is Trademarked In addition to this specific course, I suggest adding language similar to "or other Orange County approved BMP training program" at the end of this sentence in the event that this training becomes unavailable or changes significantly so that it is no longer as applicable to this ordinance.
(b)	<u>All commercial applicators within Orange County shall have and carry in their possession at all times when applying fertilizer, evidence of certification by the Florida Department of Agriculture and Consumer Services as a commercial fertilizer applicator pursuant to rule 5E-14.117(11), F.A.C., and section 482.1562. F.S.</u>	Current or up to date. Licensees shall obtain the Continued Educational Units (CEUs) needed to keep their license up to date. THIS IS A HUGE PROBELM and we have served the backlog of people and fielded many questions.
(c)	<u>All commercial applicators must submit proof of subparagraph (b) to Orange County EPD to receive an applicator decal and shall affix the decal provided by Orange County EPD to all vehicles used during applications.</u>	Suggest a bigger size for Decals
(d)	<u>Non-commercial applicators shall follow the recommendations of the Orange County office of the UF/IFAS Florida Yards and Neighborhoods program (or its successor) when applying fertilizers provide proof on an annual basis of successful completion of the online training "Orange County Fertilizer Application Education Course for Citizens" on the Orange County fertilizer web page.</u>	Saying "shall", how do we enforce? Or institutional?  Does this mean only 2 times per year or up to 5 times per year for certain species (St. Augustine)? It says 2 above, but FYN handbook states this: For centipedegrass, apply about twice a year in Central. For St. Augustinegrass or zoysiagrass, apply about two or three times a year in Central Florida.  Also, other UF documents that could be interpreted as FYN say 2-5 for St. Augustine <a href="https://hort.ifas.ufl.edu/yourfloridalawn/documents/LawngressFertilizerRecommendations.pdf">https://hort.ifas.ufl.edu/yourfloridalawn/documents/LawngressFertilizerRecommendations.pdf</a> Consider if this fits better under the exemptions section. Specifically on lines 208, 234, 306. we suggest that broadcast spreaders must be used for fertilizer application and state it clearly in the ordinance rather than a reader having to find and delve deep into an IFAS publication mentioned later on in the draft ordinance. Also, this draft document focuses on slow release fertilizers which are in a solid form. In one subsection we noted that there is a loop hole because the draft ordinance refers to IFAS pubs that speak of soluble fertilizers for gardens and fruit trees. Some peoples "gardens" are pretty expansive and spraying miracle grow on 25% of your property defeats the purpose. Just seems like a small loop hole to get around slow release. Maybe we are just sustainable nuts, but those are our two cents for the draft document. We believe this draft provides Orange County a solid foundation to move forward with into the future.
<b>15-811 Variances.</b>		
	All requests for a variance(=) from the requirements of this article shall be made in writing to the <u>manager</u> <del>Manager</del> of the Orange County <u>EPD-Environmental Protection Division</u> . The manager may require the applicant for a variance to provide such information as necessary to carry out the purpose of this article. The manager may approve, approve with conditions, <u>or deny the request</u> <del>requests</del> for a variance. <del>variances</del> -A variance may be granted if strict application of <u>this article</u> <del>the Orange County Fertilizer Management Ordinance</del> would lead to unreasonable or unfair results in particular instances, provided that the applicant demonstrates with particularity that compliance will	Copy Pinellas County Ordinance, don't allow for loopholes Recent similar language added to a Water Rec Ordinance Draft provides for a variance- Sec. 15-811 the variance from requirements of other ordinance erodes the strong.....Please remove the variance for exception to apply nitrogen and phosphorus The Sierra Club supports Orange County's effort to update & Strengthen the ordinance. The draft is missing one major protection. Why is there an inclusion of a section of a variance w/in the ordinance? This inclusion of this would seem to run counter to the intent of strengthening this ordinance. Other strong ordinances nearby do not have a variance section (e.g. Seminole, Lake, Brevard, Volusia). This could potentially create a loophole that like the 2017 ordinance could exempt commercial applicators. There is no situation where failure to apply fertilizer will result in "substantial economic, health, or other hardship" to any business. If a patch of grass needs attention, there are soil amendments, like compost, that can be used. There are also plenty Zero N & Zero P compliant products available to consumers. With the exception of the variance, we support this ordinance. Please eliminate the entirety of Sec 15-811.

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	result in a substantial economic, health, <del>or</del> or other hardship on the applicant requesting the variance or those served by the applicant.	<p>Can you give an example of a variance (sec 15-811); specifically what situation would lead to "unreasonable or unfair results...that would result in substantial economic, health, or other hardship..." I support Sierra Club's motion to delete the variance section.</p> <p>I urge you to direct the EPD to eliminate the "variance loophole" by deleting the entirety of Sec 15-811. We need a strict rainy season ban on urban fertilizer application. Clean water is the lifeblood of our community and we need to do more. Orange County contains the headwaters of the Everglades and we have to do better. (Include if you've lived in CFL a while... or if you live on a polluted lake...if your livelihood depends on clean water... Why this matters to you, etc! Msg me if you need help. Thank you. )</p> <p>How are you working with municipalities on noticing and enforcement? Winter Park has adopted O.C. Ordinance.</p>
<b>15-812 Enforcement and penalty.</b>		
(a) It shall be unlawful for any person to violate any provision of this article, except section 15-802(b), or any provision of any <del>regulation resolution</del> enacted pursuant to the authority of this article. Every code enforcement officer is authorized to enforce the provisions of this article. Any <del>applicator person</del> who violates any provision of this article, except section 15-802(b), or any provision of any <del>regulation resolution</del> enacted pursuant to the authority of this article, shall be subject to the following penalties: <u>may be prosecuted in accordance with chapter 11. Each day such a violation continues shall be considered a separate offense.</u>		<p>Since we passed the 2017 ordinance. How many companies have been issued a warning letter or citation?</p> <p>Without clearly outlined fines this has revision has no teeth. Suggest \$100 fine for first offense and \$250 thereafter and \$500 for commercial and \$1000 thereafter.</p> <p>Sec.15-812 reduces the amount of fines for violations, not sure why they are doing that if the goal is to make the ordinance more effective.</p> <p>Why exempt businesses?</p> <p>What is the ch. 11 violation schedule?</p> <p>Sec. 15-812 can we add fines?</p> <p>Tampa, Sarasota, St. Pete when they put out the blackout periods and all of that, there's been very little results...now there's not much attention paid to it at all by the people out there doing the work because there was not enough enforcement</p> <p>I would say that this needs to be accompanied by a good plan to train staff (code enforcement officers and inspectors) on how to enforce. All field staff should be made aware of what to look for and where to send complaints for actual notices of violation. Also should be accompanied by a robust public information campaign on the benefits of compliance to the environment as a whole vs the harm + penalties.</p>
<b>Comments of a General Nature</b>		
<b>Runoff</b>		I am a homeowner on Lake Virginia and have seen firsthand the negative effect of Fertilizer runoff. I am very concerned and support this fertilizer ordinance
<b>Leaching</b>		<p>UF - tour of some equipment they had created for studying leaching and they had turf grass and they had the roots going down and they would put fertilizer in the water and they do a study on the leachates and you know that when applied at proper rates they didn't show that fertilizer was leaching beyond the root zone to a degree that was something we need to be concerned about...we know leaf litter also leaches nitrogen and phosphorus and also bird poop and a lot of other things...I just don't understand this study and I'm going to look at it but it doesn't make sense to me because this has been studied before by UF researchers and they've done extensive studies on leaching of fertilizers and they've done extensive studies with turf and the amount of leachate that makes it past the root zone</p> <p>The point that was made a minute ago, research has shown that if we use these correct rates, spoon feed nutrition, you don't get leaching. That's a fact. Laurie Trenholm proved it.</p>
<b>Industry is using small amounts of nitrogen</b>		<p>Fertilizer's our biggest expense in our applications so we don't want to put down any more fertilizer than we have to...I would suggest that it's the homeowners in that area that maybe are contributing most of this</p> <p>Commercial people, we have a lot of people that monthly, if not more than monthly, pull tissue samples to address what this gentleman here is saying they only apply what needs to be applied, so homeowners aren't pulling those samples to do that, they're just applying.</p> <p>I'll share what we do - we put about, a little over three pounds per 1000 sf per year, during the summer we're not heavily fertilizing with nitrogen, we're using a lot of micronutrients, but we add a little bit of nitrogen ¼ to 1/3 because it helps the uptake of the micronutrients. There are two ways to make grass greener, nitrogen and iron and manganese, micronutrients or nitrogen</p>
<b>Pesticides</b>		I noticed what you're requiring or what you're proposing doesn't have anything about pesticides in it, I didn't see that, I didn't find it in the rule. Am I correct in that you're going to keep pesticides out of this blackout ordinance?
<b>Support</b>		<p>I want to thank EPD and staff for putting together this ordinance and drafting this language and opening it up for the public...We have a crisis right now. Dogs are jumping into waterbodies and dying from getting exposed to different types of harmful algae...for too long, there have been poisons applied to nature that has harmed it past the point of where it might start killing people and we don't want to wait until it gets to that point where a kid goes into a lake and dies because they've been exposed to harmful bacteria or something along those lines</p> <p>Thank you all for revisiting this again and for listening to the community. Certainly already sounds better than what we had in 2016.</p>
<b>Consult an agronomist</b>		<p>This is leaving out a lot of the new technologies that we have advanced in fertilizer and stuff. I can now affect the nutrient conversion of nitrogen and phosphorus 30 to 40 % above what you could when this ordinance was written...you need to advance the science because now how we can handle soil agronomy, I can change the release curves with soil biology versus just the other way and none of that's addressed in here</p> <p>have an agronomist on this panel so that we can have input for healthy systems...not banning things, blanket banning things, to 25 ft so that they turn into sand...an agronomist understands soils, plants, water, the systems - healthy lawns protect our waterbodies</p>

Code Section	Proposed change	Comments
<b>Homeowners are at fault</b>		<p>A 50-lb bag of fertilizer in the store is usually way too big for any homeowner lot, so they're using 30-35 lbs, do the other 15 or 20 lbs go in the garage for next time in October? No, let's just go ahead we found that they put it in the hopper and run it back out.</p> <p>My industry, has to get BMP certified and homeowners don't to apply fertilizer, why the industry has to use 65% slow release and homeowners don't, is that correct?</p> <p>But a good compromise that I'll put out there is to allow professionals to do it correctly with regulations as proposed and eliminate the homeowner from doing it</p>
<b>Sod</b>		<p>If you didn't have it around commercial buildings and we used to have all xeriscape as they call it, we'd have more rodents, we do wildlife removal and there's all kinds of animals, rats, squirrels, raccoons, getting into your structures, we'd have snakes, we'd have all kinds of things...we can't just transition to this we have to take care of turfgrass, we don't live in Arizona, we can't just transition quickly to no turfgrass, if we want to move in that direction it needs to move slowly</p> <p>There are alternatives to sod that should be considered when you are making statements about healthy systems; there are other alternatives that can be utilized to ensure water quality and soil quality improvements over time...sod is not the only choice there are other alternatives that could help build soil quality, there are other Florida Friendly very low water concentrated things that we could use</p> <p>Florida Yards and Neighborhoods that has the nine principles, and actually the appropriate use of turf is one of the nine principles</p>
<b>Too extreme</b>		<p>The ordinance as proposed today is too extreme</p>
<b>Septic</b>		<p>I think that the energy is so high right now for Septic to Sewer. The investment that all tax players in Florida are making right now to make sure that Septic to Sewer...This is coming at the same issue from two difference angles. Maybe the opportunity is also out there to try and for whenever these things come up at the BCC or in the news about what's going into effect such Septic to Sewers...to say "in Conjunction With."</p>

Orange County Mayor Jerry L. Demings  
& Orange County Commissioners  
201 S Rosalind Ave  
5th Floor  
Orlando, FL. 32801



# Florida House of Representatives

*Representative Anna V. Eskamani*

District 47

## District Office

1507 E. Concord Street  
Orlando, Florida 32803  
407-228-1451

## Tallahassee Office

1402 The Capitol  
402 South Monroe Street  
Tallahassee, FL 32399-1300  
850-717-5047

Email: [Anna.Eskamani@myfloridahouse.gov](mailto:Anna.Eskamani@myfloridahouse.gov)

Tuesday, November 30, 2021

Commissioners & Mayor Demings,

It is my pleasure to join the Sierra Club of Florida and dozens of local voices and statewide advocates in support of their grassroots initiative **to urgently request that the Environmental Protection Division updates to Orange County's urban fertilizer ordinance include a strict, no-exemption, rainy season application blackout period.** The current Orange County ordinance, with inconsistent rainy season rules, is impossible to enforce and therefore ineffective.

With a strengthened urban fertilizer ordinance, Orange County would join the [sixteen counties and over 100 municipalities](#) that have adopted "strong" ordinances that include strict (no exemption) rainy season application bans and a number of other protective provisions related to the content and application rate of fertilizer application since 2007.

These strong provisions, found in so many other existing ordinances in the state, have already been vetted many times over. These provisions are now considered the minimum protections.

**Weather and seasonal restrictions:** No applicator shall apply fertilizers containing nitrogen and/or phosphorus to turf and/or landscape plants during the restricted season from June 1 through September 30.

## Fertilizer content and application rate:

1. Fertilizers shall be applied to turf and/or landscape plants at the recommended rate per the "Florida Friendly Best Management Practices for Protection of Water Resources by the Green Industries," December 2008, as revised, with no more than four (4) pounds of nitrogen per 1,000 sq. ft. applied in any calendar year.
2. No fertilizer containing phosphorus shall be applied to turf and/or landscape plants, except where phosphorus deficiency has been demonstrated in the soil underlying the turf and/or landscape plants by a soil analysis test performed by a State of Florida-certified laboratory. Any person who obtains such a soil analysis test showing a phosphorus deficiency and who wishes to apply phosphorus to turf and/or landscape plants shall mail a copy of the test results to the City prior to the application of phosphorus.



3. Nitrogen fertilizer shall not be applied on newly established turf or new landscape plants for the first 30 days.
4. Not more than 1 lbs. of total nitrogen per 1000 sq. ft. per application shall be applied.
5. Nitrogen shall not be applied at an application rate greater than 0.5 lbs. of readily available nitrogen per 1000 sq. ft. based on the soluble fraction of formulated fertilizer.
6. Granular fertilizers containing nitrogen applied to turf and/or landscape plants within the County shall contain no less than 50 percent slow-release nitrogen per guaranteed analysis label.
7. Liquid fertilizers containing nitrogen applied to turf and/or landscape plants within the County shall not be applied at a rate that exceeds 0.5 lbs./1,000 feet per application.

**Fertilizer-free zones:**

Fertilizer shall not be applied within 15 feet from the top of bank of any surface water, landward edge of the top of a seawall, designated wetland or wetland as defined by the Florida Department of Environmental Protection (Chapter 62-340, Florida Administrative Code, as it may be amended or superseded).

**There are other provisions that should be included in a strong/protective ordinance, but the above are the most noteworthy and important.**

The aim is to ensure that the updated Orange County ordinance is at least as protective as the other strong urban fertilizer ordinances in Central Florida and across the state, and as such is in full support of your action to strengthen your local fertilizer ordinance and endorses *almost* all of the Environmental Protection Division's (EPD) recommendations in the [10/11/21 draft ordinance](#).

The EPD draft ordinance is missing only one major protection found in other strong ordinances, and that is the protection from the "variance loophole." The inclusion of a variance runs counter to both the intent of strong fertilizer ordinances, and your effort to insert a strict, no exemption, rainy season application ban. No strong fertilizer ordinances anywhere in the state contain variances; nearby [Seminole County](#), [Lake County](#), [Brevard County](#), and [Volusia County](#) fertilizer ordinances are evidence that a variance is **not** warranted.

**In conclusion:** Strict rainy season ban ordinances are no longer a new idea but rather a set of well-established and accepted practices through which local governments can address and reduce pollution borne by local stormwater runoff. You will find [here](#) the list of current strong ordinances in the state. It is surely time for Orange County to take urban fertilizer pollution seriously.

Please direct the EPD to update Orange County's urban fertilizer ordinance to include a strict, no-exemption, rainy season application blackout period.

Respectfully,



**Representative Anna V. Eskamani**

Florida State House District 47

November 29, 2021

Thank you for the opportunity to provide feedback to the Orange County Fertilizer Ordinance. We respectfully request modification to the following two *subsections* of the DRAFT Ordinance.

**Sec. 15-803. Timing of fertilizer application.**

*(c) Fertilizer containing nitrogen shall not be applied before seeding or sodding a site, and shall not be applied for the first thirty (30) days after seeding or sodding, except when hydro-seeding for temporary or permanent erosion control in an emergency situation (e.g., wildfire), or in accordance with the Stormwater Pollution Prevention Plan for that site.*

**We ask for this section to be removed or modified** to allow for the use of nitrogen and phosphorous during the seeding and/or sodding phase of grass growth. Proper nutrient rates are critically important during the planting period to promote proper root structures which in turn helps capture and filter excess nutrients.

**Sec. 15-804. Fertilizer content; application rate.**

*(c) No fertilizer containing nitrogen shall be applied unless at sixty-five (65) percent of its nitrogen content is slow release as indicated on the Guaranteed Analysis label, not to exceed two (2) pounds of nitrogen per one thousand (1,000) square feet per year.*

**We ask for the limit to be raised to 4lbs N/1000ft/yr** to ensure homeowners are able to achieve the adequate recommended rate for St. Augustinegrass, the predominant lawn species in Orange County.

According to the 2015 U of FL Publication #ENH979 - HOMEOWNER BEST MANAGEMENT PRACTICES FOR THE HOME LAWN <https://edis.ifas.ufl.edu/publication/ep236> 2lbs of N/1000ft/yr is the absolute minimum recommended amount and not optimal to maintain adequate residential lawn quality.

**Table 2. of #ENH979 UF/IFAS recommendations for annual nitrogen application rates in pounds of nitrogen per 1,000 square feet of lawn.**

Annual Nitrogen Application Rates				
Region	Bahiagrass	Centipedegrass	St. Augustinegrass	Zoysiagrass
Central	2-4	2-3	2-5	2-4

2lbs of N/1000ft/yr maximum is not in line with the over 175 local fertilizer ordinances. Currently only two local fertilizer ordinances cap nitrogen below 4lbs per year. Miami-Dade’s ordinance passed in April 2021 and heralded as the ‘gold standard’ calls for 4lbs of N/1000ft/yr.

**Phil Dwyer, Ph.D.**  
 Research Principal  
 Scotts MiracleGro



# EVERGLADES COALITION

November 22, 2021

Orange County Government  
201 S Rosalind Ave, 5th Floor  
Orlando, FL. 32801

**Re: Everglades Coalition Supports the Adoption of a Strong Urban Fertilizer Ordinance by Orange County**

Dear Orange County Commissioners,

On behalf of the Everglades Coalition member organizations committed to the protection and restoration of America's Everglades, the Everglades Coalition supports Orange County adopting a strong urban fertilizer ordinance. Many of Florida's waterways do not meet water quality standards and nutrient pollution is one of the state's most significant water quality problems. The creation of a strong urban fertilizer ordinance to regulate the timing, quantity, and content of fertilizers applied to urban landscapes is one of the most cost-effective steps a community can take to protect water quality, our economy, and our quality of life.

Please accept the attached resolution supporting our position. If you have any questions, please email [info@evergladescoalition.org](mailto:info@evergladescoalition.org).

Sincerely,

Marisa Carrozzo  
Co-Chair

Mark Perry  
Co-Chair

BCC: Mayor Jerry L. Demings, Orange County  
Commissioner Nicole H. Wilson, District 1  
Commissioner Christine Moore, District 2  
Commissioner Mayra Uribe, District 3  
Commissioner Maribel Gomez Cordero, District 4  
Commissioner Emily Bonilla, District 5  
Commissioner Victoria P. Siplin, District 6

CC: David Jones, Manager – EPD  
Julie Bortles, Regulatory Compliance Program Coordinator – EPD  
Jane Gregory, Environmental Programs Administrator – EPD

*The Everglades Coalition is a 501(c)3 alliance of local, state, and national conservation organizations dedicated to the full protection and restoration of America's Everglades.*

[evergladescoalition.org](http://evergladescoalition.org)



# Everglades Coalition

## **A RESOLUTION OF THE EVERGLADES COALITION SUPPORTING THE ADOPTION OF STRONG URBAN FERTILIZER ORDINANCES BY LOCAL GOVERNMENTS**

1000 Friends of Florida  
Angler Action Foundation  
Audubon Florida  
Audubon of Southwest Florida  
Audubon of the Western Everglades  
Audubon Society of the Everglades  
Backcountry Fly Fishers of Naples  
Calusa Waterkeeper  
Cape Coral Friends of Wildlife  
Center for Biological Diversity  
Conservancy of Southwest Florida  
Defenders of Wildlife  
“Ding” Darling Wildlife Society  
Earthjustice  
Environment Florida  
Everglades Foundation  
Everglades Law Center  
Everglades Trust  
Florida Bay Forever  
Florida Conservation Voters Education Fund  
Florida Defenders of the Environment  
Florida Keys Environmental Fund  
Florida Native Plant Society  
Florida Oceanographic Society  
Friends of the Arthur R. Marshall  
Loxahatchee National Wildlife Refuge  
Friends of the Everglades  
Hendry-Glades Audubon Society  
International Dark-Sky Association,  
FL Chapter  
Izaak Walton League of America  
Izaak Walton League Florida Division  
Izaak Walton League Florida Keys Chapter  
Izaak Walton League Mangrove Chapter  
Lake Worth Waterkeeper  
Last Stand  
League of Women Voters of Florida  
Martin County Conservation Alliance  
Miami Pine Rocklands Coalition  
Miami Waterkeeper  
National Audubon Society  
National Parks Conservation Association  
National Wildlife Refuge Association  
Natural Resources Defense Council  
North Carolina Outward Bound School  
Ocean Research & Conservation Association  
Peace River Audubon Society  
Reef Relief  
Sanibel-Captiva Conservation Foundation  
Sierra Club  
Sierra Club Florida Chapter  
Sierra Club Broward Group  
Sierra Club Calusa Group  
Sierra Club Central Florida Group  
Sierra Club Loxahatchee Group  
Sierra Club Miami Group  
South Florida Audubon Society  
Southern Alliance for Clean Energy  
The Florida Wildlife Federation  
The Institute for Regional Conservation  
The National Wildlife Federation  
Theodore Roosevelt Conservation  
Partnership  
Tropical Audubon Society

WHEREAS, many of Florida's waterways do not meet water quality standards and nutrient pollution is one of the state’s most significant water quality problems; and

WHEREAS, nutrient pollution - excess nitrogen and phosphorous - originates from many sources, including septic tanks, inadequately treated wastewater, agricultural production and urban stormwater; and

WHEREAS, nitrogen and phosphorus fertilizer applied on lawns and landscapes can leach and runoff yards into waterways and fuel harmful algae outbreaks; and

WHEREAS, nitrogen and phosphorous pollution-fueled blooms of algae can produce toxins and deplete oxygen in the water, killing fish, other aquatic organisms, water fowl, pets, and livestock; and

WHEREAS, creating an ordinance and education program to regulate the timing, quantity, and content of fertilizers applied to urban landscapes is one of the most cost-effective steps a community can take to protect water quality and quality of life; and

WHEREAS, since 2007, thirteen counties and over one hundred municipalities have adopted “strong” urban fertilizer ordinances; and

WHEREAS, these urban fertilizer ordinances include strict (no exemption) rainy season application bans and a number of other protective provisions related to the content and rate of fertilizer application; and

WHEREAS, the science behind the many strong local fertilizer ordinances is voluminous; every local government that has adopted a strong ordinance since 2007, and especially since 2009, has a public record of all of the science used to determine the viability of a strong ordinance in the respective watershed. In 2009, Florida Statute (403.9337) mandated that each ordinance stronger than the Florida Department of Environmental Protection (FDEP) Model ordinance be “science-based, and economically and technically feasible”. Since that date ordinances covering 11 counties, and in most cases all of their respective municipalities, have been adopted and implemented; and

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WHEREAS, the Florida Department of Agriculture and Consumer Services (FDACS) has never challenged the legality or the science behind any of the existing ordinances. In December 2014, the Florida Department of Agriculture and Consumer Services (FDACS) updated the labeling requirements for DIY bags of turf fertilizer in the state to include the following language: “*Check with your county or city government to determine if there are local regulations for fertilizer use;*” and

WHEREAS, the fertilizer industry’s response has been positive. In 2015 Scotts® announced a new summer-safe, no N-no P, turf product. It is an example of the positive response received by many urban fertilizer manufacturers since the first summer rainy season bans were adopted in 2007.

NOW, THEREFORE, BE IT RESOLVED THAT:

The Everglades Coalition supports local government adoption of strong urban fertilizer ordinances more stringent than the state model baseline. There are several aspects that constitute a strong fertilizer ordinance:

1. **Weather and seasonal restrictions:** No applicator shall apply fertilizers containing nitrogen and/or phosphorous to turf and/or landscape plants during the restricted season from June 1 through September 30.
2. **Fertilizer content and application rate:**
  - a. Fertilizers shall be applied to turf and/or landscape plants at the recommended rate per the "Florida Friendly Best Management Practices for Protection of Water Resources by the Green Industries", December 2008, as revised, with no more than four pounds of nitrogen per 1,000 feet<sup>2</sup> applied in any calendar year. *Note: The 4 lb. per year limit has been in effect in Sarasota County since 2007.*
  - b. No fertilizer containing phosphorus shall be applied to turf and/or landscape plants, except where phosphorus deficiency has been demonstrated in the soil underlying the turf and/or landscape plants by a soil analysis test performed by a State of Florida-certified laboratory. Any person who obtains such a soil analysis test showing a phosphorus deficiency and who wishes to apply phosphorus to turf and/or landscape plants shall mail a copy of the test results to the respective local government prior to the application of phosphorous. *Note: The zero phosphorous language has been found in strong ordinances since 2010. In 2011, Scotts® announced they would completely remove phosphorus from their lawn maintenance fertilizers, including Scotts® Turf Builder®, the best-selling lawn fertilizer in the United States*
  - c. Nitrogen fertilizer shall not be applied on newly established turf or new landscape plants for the first 30 days.
  - d. Granular fertilizers containing nitrogen applied to turf and/or landscape plants shall contain no less than 50 percent slow release nitrogen per guaranteed analysis

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label. Note: “At least 50% Slow Release Nitrogen” has been in strong ordinances since 2007.

- e. Liquid fertilizers containing nitrogen applied to turf and/or landscape plants shall not be applied at a rate that exceeds 0.5 lbs./1,000 feet<sup>2</sup> per application. *Note: The 0.5 lbs./1,000 feet<sup>2</sup> per application has been in strong ordinances since 2007.*
- 3. Fertilizer-free zones:** Fertilizer shall not be applied within 15 feet from the top of bank of any surface water, landward edge of the top of a seawall, designated wetland or wetland as defined by the Florida Department of Environmental Protection (Chapter 62-340, Florida Administrative Code, as it may be amended or superseded).

APPROVED AND ADOPTED this 11<sup>th</sup> DAY OF September 2020.



Mark Perry  
Co-Chair



Marisa Carrozzo  
Co-Chair

*Committed to full protection and restoration of America's Everglades*



July 29, 2021

David Jones  
Manager  
Orange County Environmental Protection Division (EPD)  
3165 McCrory Place  
Orlando, FL 32803  
Via email: [David.Jones2@ocfl.net](mailto:David.Jones2@ocfl.net)

**RE: Sierra Club support for a strict, no exemption, rainy season ban urban fertilizer ordinance**

Dear Mr. Jones:

Sierra Club Florida has been promoting the inclusion of a strict, no-exemption, rainy season application blackout period in the Orange County urban fertilizer ordinance since 2010. The current Orange County ordinance, with inconsistent rainy season rules, is impossible to enforce and therefore ineffective.

Because we understand that the Environmental Protection Division is currently working on an update to the county ordinance, we offer below provision language that is identical to or effectively the same as other urban fertilizer ordinances around the state.

Until sources of pollution are stopped at the source, taxpayers will be stuck on the expensive clean-up treadmill. Strictly regulating urban fertilizer is a no-nonsense, low-cost way to stop nutrient-laden urban stormwater runoff at its source.

With a strengthened urban fertilizer ordinance, you would join the [fifteen counties and over 100 municipalities](#) that have adopted “strong” ordinances that include strict (no exemption) rainy season application bans and a number of other protective provisions related to the content and application rate of fertilizer application since 2007.

Orange County is lucky because these strong provisions, found in so many other existing ordinances in the state, have already been vetted many times over. Because these provisions, noted below, are now considered the minimum protections, the Sierra Club cannot endorse any ordinance that does not include them:

**Weather and seasonal restrictions:**

No applicator shall apply fertilizers containing nitrogen and/or phosphorus to turf and/or landscape plants during the restricted season from June 1 through September 30.

*Note: The no-exemption rainy season application ban is the backbone of any urban fertilizer ordinance. In 2021, newly adopted ordinances have lengthened the blackout period to begin on May 15. Others have extended or are contemplating extending the period through the end of the hurricane season (November 30).*



**Fertilizer content and application rate:**

1. Fertilizers shall be applied to turf and/or landscape plants at the recommended rate per the "Florida Friendly Best Management Practices for Protection of Water Resources by the Green Industries", December 2008, as revised, with no more than four (4) pounds of nitrogen per 1,000 sq. ft. applied in any calendar year.

*Note: The 4 lb. per year limit has been in effect in Sarasota County since 2007. In the last two months, Miami-Dade and Monroe County have both adopted a "no more than two (2) pounds of nitrogen per 1,000 sq. ft. applied in any year" provision. This is noteworthy because the growing season is longer in Miami-Dade than it is in Orange County, and we encourage you to follow Miami-Dade County's lead and reduce the annual application limit on Nitrogen to below four (4) pounds per 1,000 sq. ft.*

2. No fertilizer containing phosphorus shall be applied to turf and/or landscape plants, except where phosphorus deficiency has been demonstrated in the soil underlying the turf and/or landscape plants by a soil analysis test performed by a State of Florida-certified laboratory. Any person who obtains such a soil analysis test showing a phosphorus deficiency and who wishes to apply phosphorus to turf and/or landscape plants shall mail a copy of the test results to the City prior to the application of phosphorus.

*Note: The zero phosphorous language has been found in strong ordinances since 2010. In 2011, Scotts® announced they would completely remove phosphorus from their lawn maintenance fertilizers, including Scotts® Turf Builder®, the best-selling lawn fertilizer in the United States.*

3. Nitrogen fertilizer shall not be applied on newly established turf or new landscape plants for the first 30 days.

4. Not more than 1 lbs. of total nitrogen per 1000 sq. ft. per application shall be applied.

5. Nitrogen shall not be applied at an application rate greater than 0.5 lbs. of readily available nitrogen per 1000 sq. ft. based on the soluble fraction of formulated fertilizer.

6. Granular fertilizers containing nitrogen applied to turf and/or landscape plants within the County shall contain no less than 50 percent slow release nitrogen per guaranteed analysis label.

*Note: The terms "At least 50% Slow Release Nitrogen" and "shall not be applied at a rate that exceeds 0.5 lbs./1,000 feet<sup>2</sup> per application" have been in strong ordinances since 2007. The ordinances adopted in Seminole (2017) and Miami-Dade (2021) counties have included stronger "at least 65% Slow Release Nitrogen" provisions.*

7. Liquid fertilizers containing nitrogen applied to turf and/or landscape plants within the County shall not be applied at a rate that exceeds 0.5 lbs./1,000 feet<sup>2</sup> per application.



**Fertilizer-free zones:**

Fertilizer shall not be applied within 15 feet from the top of bank of any surface water, landward edge of the top of a seawall, designated wetland or wetland as defined by the Florida Department of Environmental Protection (Chapter 62-340, Florida Administrative Code, as it may be amended or superseded).

*Note: The 10-ft. Fertilizer-free zones found in earlier ordinances have been exchanged for 15-25-ft. fertilizer-free zones in the last few years.*

There are other provisions that should be included in a strong/protective ordinance, but the above are the most noteworthy and important.

**The science behind Florida’s many strong local ordinances is voluminous.** Each and every county that has adopted a strong ordinance since 2007, and especially since 2009, has a public record of all of the science it used to determine the viability of a strong ordinance in their respective watershed. In 2009, Florida Statute (403.9337) mandated that each ordinance stronger than the FDEP Model ordinance be “science-based, and economically and technically feasible” – since that date ordinances covering over a dozen counties, and in most cases all of their respective municipalities, have been adopted and implemented.

**The “Limited Urban Commercial Fertilizer Applicator Certification” Florida (certified applicator (GI BMP) training),** Statutes 482.1562 adopted in 2009, mandated limited certification for all commercial fertilizer applicators by January 1, 2014. This limited certification is acquired pursuant to Florida Statutes, 403.9338. The certification process and test includes the following topics: Overview, Lawn & Landscape, Irrigation, Fertilizer, and Pesticides. The training also includes a pre-instruction test and a post-instruction test which is identical to the pre-test. It can be taken in person (price varies but approximately \$30) or can be taken online or by DVD – the online test costs \$15. The entire in-person course is taken in a 7.5 hour period that includes a lunch break. A passing grade is 75% which means that the test taker could get every single “Fertilizer” or every single “Lawn & Landscape” related question on the test wrong, but still pass the test. In as much, the certification process is not the only thing local governments should depend upon for protection from fertilizer pollution when nearby and downstream water bodies are at risk. The Sierra Club poured through all of the GI BMP training materials and produced [a review](#) that we shared with you and other EDP staff on July 21, 2017; it details what is, and is not, covered in the training. To date we have yet to receive answers to the questions we posed, but suggest these questions be contemplated as you endeavor to update the ordinance once again.

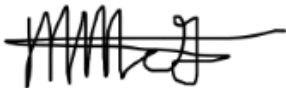
**FDACS has never challenged the legality or the science behind any of the existing strict rainy season application ban ordinances.** It should also be noted that in December 2014 the Florida Department of Agriculture and Consumer Services (FDACS) updated the labeling requirements for DIY bags of turf fertilizer in the state to include the following language: “*Check with your county or city government to determine if there are local regulations for fertilizer use.*”

**The fertilizer industry's response has been positive.** In 2015 Scotts® announced their new summer-safe, no N-no P, turf product. It is an example of the positive response received by many urban fertilizer manufacturers since the first summer rainy season bans were adopted in 2007. There are many summer-safe products available. Pinellas County keeps track of ordinance-compliant products [here](#).

**Lawns are healthier with less nitrogen.** Rick Barth, President, Palmer Ranch Master Property Owners Association gives powerful testimony in his [2009 letter](#), but there is an abundance of literature that links nitrogen fertilization with pest infestation and disease.

**In conclusion:** Strict rainy season ban ordinances are no longer a new idea but rather a set of well-established and accepted practices through which local governments can address and reduce pollution borne by local stormwater runoff. You will find [here](#) the list of current strong ordinances in the state. It is surely time for Orange County to take urban fertilizer pollution seriously, and Sierra Club is ready to assist you as you proceed through the drafting and adoption process.

Respectfully,



**Michael McGrath**  
Sierra Club Organizing Representative  
Red Tide-Wildlands Campaign  
386-341-4708  
[michael.mcgrath@sierraclub.org](mailto:michael.mcgrath@sierraclub.org)  
2022 Hendry Street, Suite 250  
Fort Myers, FL 33901

cc: Commissioner Nicole Wilson [Nicole.Wilson@ocfl.net](mailto:Nicole.Wilson@ocfl.net)  
Lee-Alyse Perry [Lee-Alyse.Perry@ocfl.net](mailto:Lee-Alyse.Perry@ocfl.net)

**STRONG County and *Municipal* Urban Fertilizer Ordinance Coverage as of 11/22/21**  
**All include strict summer rainy season application bans.**

**Sarasota County (2007)**

*City of Sarasota*  
*Northport*  
*Venice*  
*Longboat Key\**

**Lee County (2008)**

*City of Sanibel*  
*City of Fort Myers*  
*Fort Myers Beach*  
*Bonita Springs*  
*City of Cape Coral*

**Pinellas County (2010)**

*Bellaire*  
*Bellaire Beach*  
*Bellaire Bluffs*  
*Bellaire Shore*  
*Clearwater*  
*Dunedin*  
*Gulfport*  
*Indian Rocks Beach*  
*Indian Shores*  
*Kenneth City*  
*Largo*  
*Madeira Beach*  
*North Redington Beach*  
*Oldsmar*  
*Pinellas Park*  
*Redington Beach*  
*Safety Harbor*  
*St. Pete Beach*  
*St. Petersburg*  
*Seminole*  
*South Pasadena*  
*Tarpon Springs*  
*Treasure Island*

**Manatee County (2011)**

*Bradenton*  
*Bradenton Beach*  
*City of Anna Maria*  
*Palmetto*  
*Holmes Beach*  
*Longboat Key\**

**Charlotte County \*\* (2011)**

*Punta Gorda*

**Indian River County (2013)**

*Indian River Shores*  
*Vero Beach*  
*Orchid*  
*Sebastian*

**Martin County\*\* (2014)**

*Sewall's Point*  
*Stuart*  
*Ocean Breeze*

**St. Lucie County (2014)**

*Port St. Lucie*  
*St. Lucie Village*  
*Fort Pierce*

**Brevard County (2014)**

*Rockledge*  
*Satellite Beach*  
*Melbourne Village*  
*Titusville*  
*Cocoa Beach*  
*Cocoa*  
*Cape Canaveral*  
*Grant-Valkaria*  
*Indian Harbour Beach*  
*Malabar*  
*Indialantic*  
*Palm Bay*  
*Palm Shores*  
*West Melbourne*  
*Melbourne Beach*  
*Melbourne*

**Volusia County (2014)**

*Daytona Beach*  
*New Smyrna Beach*  
*Ormond Beach*  
*Orange City*  
*Lake Helen*  
*DeLand*  
*Port Orange*  
*Holly Hill*  
*South Daytona*  
*Daytona Beach Shores*

*Ponce Inlet*  
*Edgewater*  
*Oak Hill*  
*Pierson*

**Seminole County (2017)**

*Altamonte Springs*  
*Casselberry*  
*Lake Mary*  
*Longwood*  
*Oviedo*

**Lake County (2017)**

*City of Montverde*

**Alachua County (2019)**

*Gainesville*  
*Hawthorne*  
*Archer*  
*Alachua*  
*Newberry*  
*High Springs*  
*Waldo*  
*Micanopy*  
*Lacrosse*

**Miami-Dade County (2021)**

*City of Miami*  
*City of West Miami*  
*Village of Key Biscayne*  
*City of Miami Beach*

**Monroe County (2021)**

*Isla Morada*

**Hillsborough County (2021)**

*City of Tampa (2011)*  
 .....  
*City of Marco Island (2016)*  
*Village of No. Palm Beach (2017)*  
*Town of Jupiter (2018)*  
*City of Palm Beach (2019)*  
*City of Naples \*\* (2019)*  
*City of Ft. Lauderdale (2020)*  
*City of Maitland (2020)*

\*Longboat Key is in both Sarasota and Manatee counties.

\*\* These local governments updated/strengthened their ordinances.

(YEAR) = year of adoption at county level; in some cases municipal ordinances were adopted prior to county adoption.

(YEAR) = year of adoption in municipality where there is no county-wide strong ordinance.

November 22, 2021

Mayor Jerry L. Demings, Orange County  
Commissioner Nicole H. Wilson, District 1  
Commissioner Christine Moore, District 2  
Commissioner Mayra Uribe, District 3  
Commissioner Maribel Gomez Cordero, District 4  
Commissioner Emily Bonilla, District 5  
Commissioner Victoria P. Siplin, District 6

201 S Rosalind Ave  
5th Floor  
Orlando, FL. 32801

**RE: Widespread support for a strict, no exemption, rainy season ban urban fertilizer ordinance for Orange County**

Dear Commissioners:

The undersigned are urgently requesting that the Environmental Protection Division updates to Orange County's urban fertilizer ordinance include a strict, no-exemption, rainy season application blackout period. The current Orange County ordinance, with inconsistent rainy season rules, is impossible to enforce and therefore ineffective.

With a strengthened urban fertilizer ordinance, you would join the [sixteen counties and over 100 municipalities](#) that have adopted "strong" ordinances that include strict (no exemption) rainy season application bans and a number of other protective provisions related to the content and application rate of fertilizer application since 2007.

Orange County is lucky because these strong provisions, found in so many other existing ordinances in the state, have already been vetted many times over. Because these provisions, noted below, are now considered the minimum protections we request that each of these provisions are included in the County's update:

**Weather and seasonal restrictions:**

No applicator shall apply fertilizers containing nitrogen and/or phosphorus to turf and/or landscape plants during the restricted season from June 1 through September 30.

*Note: The no-exemption rainy season application ban is the backbone of any urban fertilizer ordinance. In 2021, newly adopted ordinances have lengthened the blackout period to begin on May 15. Others have extended or are contemplating extending the period through the end of the hurricane season (November 30).*

**Fertilizer content and application rate:**

1. Fertilizers shall be applied to turf and/or landscape plants at the recommended rate per the "Florida Friendly Best Management Practices for Protection of Water Resources by the Green

Industries", December 2008, as revised, with no more than four (4) pounds of nitrogen per 1,000 sq. ft. applied in any calendar year.

*Note: The 4 lb. per year limit has been in effect in Sarasota County since 2007. In the last two months, Miami-Dade and Monroe County have both adopted a "no more than two (2) pounds of nitrogen per 1,000 sq. ft. applied in any year" provision.*

2. No fertilizer containing phosphorus shall be applied to turf and/or landscape plants, except where phosphorus deficiency has been demonstrated in the soil underlying the turf and/or landscape plants by a soil analysis test performed by a State of Florida-certified laboratory. Any person who obtains such a soil analysis test showing a phosphorus deficiency and who wishes to apply phosphorus to turf and/or landscape plants shall mail a copy of the test results to the City prior to the application of phosphorus.

*Note: The zero phosphorous language has been found in strong ordinances since 2010. In 2011, Scotts® announced they would completely remove phosphorus from their lawn maintenance fertilizers, including Scotts® Turf Builder®, the best-selling lawn fertilizer in the United States.*

3. Nitrogen fertilizer shall not be applied on newly established turf or new landscape plants for the first 30 days.

4. Not more than 1 lbs. of total nitrogen per 1000 sq. ft. per application shall be applied.

5. Nitrogen shall not be applied at an application rate greater than 0.5 lbs. of readily available nitrogen per 1000 sq. ft. based on the soluble fraction of formulated fertilizer.

6. Granular fertilizers containing nitrogen applied to turf and/or landscape plants within the County shall contain no less than 50 percent slow-release nitrogen per guaranteed analysis label.

*Note: The terms "At least 50% Slow Release Nitrogen" and "shall not be applied at a rate that exceeds 0.5 lbs./1,000 feet<sup>2</sup> per application" have been in strong ordinances since 2007. The ordinances adopted in Seminole (2017) and Miami-Dade (2021) counties have included stronger "at least 65% Slow Release Nitrogen" provisions.*

7. Liquid fertilizers containing nitrogen applied to turf and/or landscape plants within the County shall not be applied at a rate that exceeds 0.5 lbs./1,000 feet<sup>2</sup> per application.

**Fertilizer-free zones:**

Fertilizer shall not be applied within 15 feet from the top of bank of any surface water, landward edge of the top of a seawall, designated wetland or wetland as defined by the Florida Department of Environmental Protection (Chapter 62-340, Florida Administrative Code, as it may be amended or superseded).

*Note: The 10-ft. Fertilizer-free zones found in earlier ordinances have been exchanged for 15-25-ft. fertilizer-free zones in the last few years.*

There are other provisions that should be included in a strong/protective ordinance, but the above are the most noteworthy and important.

The undersigned aim is to ensure that the updated Orange County ordinance is at least as protective as the other strong urban fertilizer ordinances in Central Florida and across the state, and as such is in full support of your action to strengthen your local fertilizer ordinance and endorses *almost* all of the Environmental Protection Division's (EPD) recommendations in the [10/11/21 draft ordinance](#).

The EPD draft ordinance is missing only one major protection found in other strong ordinances, and that is the protection from the “variance loophole.” The inclusion of a variance runs counter to both the intent of strong fertilizer ordinances, and your effort to insert a strict, no exemption, rainy season application ban. No strong fertilizer ordinances anywhere in the state contain variances; nearby [Seminole County](#), [Lake County](#), [Brevard County](#), and [Volusia County](#) fertilizer ordinances are evidence that a variance is not warranted. **We urge you to direct the EPD to eliminate the “variance loophole” by deleting the entirety of Sec. 15-811.**

A variance in this ordinance is especially egregious because it would, like the 2017 ordinance, exempt commercial applicators from the rainy season ban, give special treatment to some without a practical or science-based reason to do so, and undermine the effectiveness of the rainy season prohibition. It is also completely unnecessary; in the case of application of fertilizer, there is no situation where failure to apply fertilizer within the rainy season would result in “substantial economic, health, or other hardship.” There are simply no conditions under which the manager of EPD would *need* to permit an applicant to apply fertilizer containing N or P during the rainy season. There is no patch of turf that cannot survive a few months without the application of N or P. If a patch of turf needs attention, there are soil amendments (like compost) available that are ordinance-compliant at any time of the year.

Furthermore, we know from more than a dozen years of strong urban fertilizer ordinance experience across the state that the response from the fertilizer industry has been positive; the market has exploded with new summer-safe products and practices. Pinellas County keeps a [list of compliant products that are zero-N and zero-P options](#) to make it easy for consumers to find alternatives during the rainy season. [Testimony](#) from Michael Juchnowicz of Garden Masters of S.W. Florida, Inc., speaks to how he has supported the adoption of strong fertilizer ordinances and how his business has successfully adjusted.

With the exception of the inclusion of a variance, we are supportive of the draft ordinance dated 10/11/21. When the variance language is deleted, Orange County will have the kind of ordinance that takes urban fertilizer pollution seriously.

**In conclusion:** Strict rainy season ban ordinances are no longer a new idea but rather a set of well-established and accepted practices through which local governments can address and reduce pollution borne by local stormwater runoff. You will find [here](#) the list of current strong ordinances in the state. It is surely time for Orange County to take urban fertilizer pollution seriously.

Until sources of pollution are stopped at the source, taxpayers will be stuck on the expensive clean-up treadmill. Strictly regulating urban fertilizer is a no-nonsense, low-cost way to stop nutrient-laden urban stormwater runoff at its source.

Please direct the EPD to update Orange County's urban fertilizer ordinance to include a strict, no-exemption, rainy season application blackout period.

Sincerely,

**Adventures in Florida**

Greg Pflug, Owner

**Bear Warriors United**

Katrina Shadix, Director and Founder

**Central Florida Climate Action**

Carlos Torrealba, Climate Justice Program Manager

**Democratic Environmental Caucus of Orange County**

Austin Valle, Chair

**Epic Paddle Adventures**

Jennifer Brown, Owner

**First Unitarian Church of Orlando (1U)**

Rev. Margalie Belizaire

**Florida Farmworkers Association**

Jeannie Economos, Coordinator, Pesticide Safety and Environmental Health Program

**Florida Native Plant Society, Cuplet Fern Chapter**

Mark Kateli, President

**Florida Native Plant Society, Tarflower Chapter**

Mandy Morgan, President

**Florida PIRG Students, University of Central Florida Club**

Niamh Harrop, President

**Florida Rights of Nature Network, Inc.**

Jim Durocher, East Central Florida Regional Director

**Florida Springs Council**

Ryan Smart, Executive Director

**Food and Water Watch**

Brooke Errett, Florida Senior Organizer

**Foundation for Florida Environmental Protection**

Eric Rollings, Chair

**Friends of the Wekiva River**

Mike Cliburn, Board Member

**Get and Up and Go Kayaking, Rocks Springs & Titusville**

Justin Buzzi, Owner & Founder

**Idea for Us**

Clayton Ferrara, Executive Director

**King's Landing**

Rachelle Huff, Director

**Kissimmee Waterkeeper**

Dr. John Capace, Waterkeeper

**League of Women Voters Orange County**

Barbara Lanning and Sue Gilman, Co-Presidents

**NAACP, Orange County Branch**

Tiffany Hughes, President

Dawn Curtis, Environmental Justice Chair

**1,000 Friends of Florida**

Paul Owens, President

**Orange Audubon Society**

Deborah Green, President

**Orange Soil & Water Conservation District**

Supervisor Karolyn Campbell, District 2

Supervisor Dawn Curtis, District 4

Supervisor Alaina Slife, District 5

**Orlando YIMBY**

Naqiy McMullen, President

**Otter Paddle Florida**

Craig Huff, Owner

**Paddle Board Orlando**

Ned Johnson, Owner/Operator

**Paddle Florida, Inc.**

Bill Richards, Executive Director

**Poder LatinX**

Jennifer Torres, Environmental Organizer

**Sanibel Captiva Conservation Foundation**

James Evans, Environmental Policy Director

**Save the Manatee Club**

Kimberleigh Dinkins, Sr. Conservation Associate



**Seminole Audubon Society**

Phyllis Hall, President

**Sierra Club, Central Florida Group**

Marge Holt, Conservation and Political Chair

**Speak Up Wekiva**

Chuck O'Neil, President

**Springs Eternal**

John Moran, Founder

**Surfrider Foundation, Orlando**

Lauren Conigliaro, Chairman

**UCF College Dems**

Dylan Hall, President

**Unitarian Universalist Justice Florida**

David Johnson, Treasurer

**United Waterfowlers Florida**

Newton Cook, President

**Wekiva Island**

Bill & Mary Sue Weinaug, Owners

Cc: David Jones, Manager - EPD

Julie Bortles, Regulatory Compliance Program Coordinator - EPD

Jane Gregory, Environmental Programs Administrator - EPD



*Provide research, program development and evaluation services that enable community-based health organizations to improve population health.*

November 19, 2021

Board of Commissioners  
County of Orange  
Orange County Administration Center  
201 S. Rosalind Avenue  
Orlando, FL 32801

Re: Fertilizer Regulations

To the Board of Commissioners:

I serve on the Orange County Sustainability Advisory Board where I represent social services and health.

This month I attended the presentation by EPD manager Jane Gregory regarding existing fertilizer ordinances in Orange County and potential updates.

According to the CDC ([Water Contamination](#) | [Other Uses of Water](#) | [Healthy Water](#) | [CDC](#)), "poorly managed and ineffective application of pesticides, irrigation water, and fertilizer is one of four agricultural activities that contribute to nonpoint source pollution. Nonpoint source (NPS) pollution is pollution that comes from many diffuse sources, unlike pollution from point sources such as industrial and sewage treatment plants."

People who consume fruit or vegetables that have been exposed to contaminated water are at risk of developing a foodborne illness.

To safeguard the health of Orange County residents and visitors, I encourage reexamining existing fertilizer ordinances with a view toward tightening those that control fertilizer runoff into our rivers, lakes, and streams.

Thank you.

A handwritten signature in black ink, appearing to read "Kenneth Peach", written in a cursive style.

Kenneth Peach  
Executive Director

(Orange County resident)

October 20, 2021

Mayor Jerry L. Demings, Orange County  
Commissioner Nicole H. Wilson, District 1  
Commissioner Christine Moore, District 2  
Commissioner Mayra Uribe, District 3  
Commissioner Maribel Gomez Cordero, District 4  
Commissioner Emily Bonilla, District 5  
Commissioner Victoria P. Siplin, District 6

201 S Rosalind Ave  
5th Floor  
Orlando, FL. 32801

**RE: To Protect the Wekiva River, Pass a Strong Fertilizer Ordinance that Includes a Ban on Summer Applications**

Dear Commissioners:

The Wekiwa Springs and Rock Springs Basin Management Action Plan (BMAP), proposed by the Florida Department of Environmental Protection (DEP) in 2018, determined that Wekiwa and Rock Springs are impaired by excess nitrogen resulting in the proliferation of algae. At the time the BMAP was drafted, nitrogen levels at the Springs were approximately five times greater than the total maximum daily load water quality standard. The BMAP identifies urban turf fertilizer as the second largest contributor of nitrogen (26%) in the basin, barely behind septic tanks (29%).

Orange County was just awarded more than \$40,000,000 in funds from taxpayers across Florida, one of the largest springs restoration appropriations in history, to connect septic tanks to central sewer in the Wekiva River Basin. These funds provide a significant opportunity to reduce pollution and lower nitrogen levels. They also come with a great responsibility to your constituents and all Florida taxpayers to do everything possible at the local level to reduce current and future nitrogen loading.

The most cost effective and timely means to reduce nitrogen pollution to Wekiwa and Rock Springs is to adopt a strong urban fertilizer ordinance that includes a strict, no-exemption, rainy season application ban. Already, fifteen counties and over one-hundred municipalities have adopted strong fertilizer ordinances that include strict rainy season bans on the application of fertilizer containing nitrogen (N) and/or phosphorous (P). These ordinances are based on the best

available science. In fact, state law requires that each ordinance stronger than the DEP Model Ordinance is “science-based, and economically and technically feasible.”

Florida Springs Council’s aim is to ensure that the updated Orange County ordinance is at least as protective as the other strong urban fertilizer ordinances in Central Florida and across the state, and as such is in full support of your action to strengthen your local fertilizer ordinance and endorses *almost* all of the Environmental Protection Division’s (EPD) recommendations in the [10/11/21 draft ordinance](#).

The EPD draft ordinance is missing only one major protection found in other strong ordinances, and that is the protection from the “variance loophole.” The inclusion of a variance runs counter to both the intent of strong fertilizer ordinances, and your effort to insert a strict, no exemption, rainy season application ban. No strong fertilizer ordinances anywhere in the state contain variances; nearby [Seminole County](#), [Lake County](#), [Brevard County](#), and [Volusia County](#) fertilizer ordinances are evidence that a variance is not warranted. We urge you to direct the EPD to eliminate the “variance loophole” by deleting the entirety of Sec. 15-811.

A variance in this ordinance is especially egregious because it would, like the 2017 ordinance, exempt commercial applicators from the rainy season ban, give special treatment to some without a practical or science-based reason to do so, and undermine the effectiveness of the rainy season prohibition. It is also completely unnecessary; in the case of application of fertilizer, there is no situation where failure to apply fertilizer within the rainy season would result in “substantial economic, health, or other hardship.” There are simply no conditions under which the manager of EPD would *need* to permit an applicant to apply fertilizer containing N or P during the rainy season. There is no patch of turf that cannot survive a few months without the application of N or P. If a patch of turf needs attention, there are soil amendments (like compost) available that are ordinance-compliant at any time of the year.

Furthermore, we know from more than a dozen years of strong urban fertilizer ordinance experience across the state that the response from the fertilizer industry has been positive; the market has exploded with new summer-safe products and practices. Pinellas County keeps a [list of compliant products that are zero-N and zero-P options](#) to make it easy for consumers to find alternatives during the rainy season. [Testimony](#) from Michael Juchnowicz of Garden Masters of S.W. Florida, Inc., speaks to how he has supported the adoption of strong fertilizer ordinances and how his business has successfully adjusted.

With the exception of the inclusion of a variance, we are supportive of the draft ordinance dated 10/11/21. When the variance language is deleted, Orange County will have the kind of ordinance that takes urban fertilizer pollution seriously.

The Florida Springs Council believes that blue springs and rivers are more important than unsustainable green yards. As such, our recommendation is that Orange County do everything within its power, including considering a year-round ban on nitrogen and/or phosphorous fertilizer or assessing a fertilizer tax dedicated to water restoration projects, to prevent nitrogen loading from urban fertilizer. At a minimum, we urge you to draft a fertilizer ordinance which meets the requirements set forth by Sierra Club Florida.

Sincerely,

A handwritten signature in black ink, appearing to read "Ryan Smart". The signature is fluid and cursive, with the first name "Ryan" being more prominent than the last name "Smart".

Ryan Smart  
Executive Director  
Florida Springs Council

Cc: David Jones, Manager - EPD  
Julie Bortles, Regulatory Compliance Program Coordinator - EPD  
Jane Gregory, Environmental Programs Administrator - EPD