

## Ashley Hofecker

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**From:** County Ordinances <CountyOrdinances@dos.myflorida.com>  
**Sent:** Thursday, November 14, 2013 1:43 PM  
**To:** Ashley Hofecker  
**Cc:** County Ordinances  
**Subject:** RE: Hernando County Ordinances  
**Attachments:** Hernando 2013-34 - Ack.pdf

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**From:** Ashley Hofecker [<mailto:ahofecker@co.hernando.fl.us>]  
**Sent:** Thursday, November 14, 2013 11:40 AM  
**To:** County Ordinances  
**Subject:** Hernando County Ordinances

Sender Full Name:	Ashley Hofecker
Sender Phone number:	352-754-4716
County Name:	Hernando
Ordinance Number:	2013-34

Ashley Hofecker

Deputy Clerk  
Hernando County Clerk of Circuit Court  
20 N. Main Street, Room 131  
Brooksville, FL 34601  
(352) 754-4716  
[ahofecker@hernandocounty.us](mailto:ahofecker@hernandocounty.us)  
[www.hernandoclerk.com](http://www.hernandoclerk.com)

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## FLORIDA DEPARTMENT *of* STATE

**RICK SCOTT**  
Governor

**KEN DETZNER**  
Secretary of State

November 14, 2013

Honorable Don Barbee Jr.  
Clerk of the Circuit Court  
Hernando County  
Room 131, 20 North Main Street  
Brooksville, Florida 34601-2800

Attention: Ms. Ashley Hofecker, Deputy Clerk

Dear Mr. Barbee:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Hernando County Ordinance No. 2013-34, which was filed in this office on November 14, 2013.

Sincerely,

Liz Cloud  
Program Administrator

LC/elr

Enclosure

**ORDINANCE NO. 2013-34**

**AN ORDINANCE AMENDING CHAPTER 28, CREATING ARTICLE XII (FERTILIZER APPLICATION ORDINANCE), REGULATING THE USE OF FERTILIZERS CONTAINING NITROGEN AND/OR PHOSPHORUS WITHIN HERNANDO COUNTY; PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR FILING WITH THE DEPARTMENT OF STATE; PROVIDING FOR INCLUSION IN THE CODE AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Hernando County is located on the “springs coast” in the heart of the largest concentration of springs in the world and is home to at least 14 springs in three major springs groups that contain geologic karst, cave and underground streams systems found nowhere else in the world; and

**WHEREAS**, Hernando County contains one of only 33 first-magnitude Florida Springs, the Weeki Wachee Main Spring, a highly valued resource due to its widely recognized environmental, historical and cultural importance to Hernando County and to the State of Florida; and

**WHEREAS**, Hernando County is concerned with the current and future impacts of loading of excess nutrients, especially nitrogen and phosphorous compounds, into these relatively low-nutrient adapted springs, rivers and coastal waters; and

**WHEREAS**, Studies conducted by the Southwest Florida Water Management District, the Florida Department of Environmental Protection and others have documented that the level of nitrogen in the water of Hernando County springs (primarily Weeki Wachee) has nearly doubled since the 1920s; and

**WHEREAS**, The Weeki Wachee Spring and the Weeki Wachee Spring Run have been listed as “verified impaired due to nutrients” by the Florida Department of Environmental Protection (FDEP); and

**WHEREAS**, Studies conducted by the Southwest Florida Water Management District, the Florida Department of Environmental Protection and others have documented the primary contributor of nitrogen to the Weeki Wachee Spring is likely applied landscape fertilizers (an inorganic nitrogen component) with onsite sewage disposal systems (an organic nitrogen component) contributing a lesser amount; and

**WHEREAS**, Hernando County has determined that lands within its boundaries are located within the springshed recharge areas of springs groups located both within and outside the County and further that lands within its boundaries are

DRAFT DOCUMENT: Note: additions/deletions = language proposed for addition/deletion to existing Code provisions.

1 also located within the watersheds of the Withlacoochee River and coastal  
2 estuaries and waters of the Gulf of Mexico; and

3  
4 **WHEREAS**, Hernando County has determined that the use of fertilizers on lands  
5 within its boundaries creates a risk contributing to adverse effects on surface and  
6 ground waters that eventually impact springs, estuaries and riverine systems;  
7 and

8  
9 **WHEREAS**, Florida Statutes 403.9337 requires local governments “located  
10 within the watershed of a water body or water segment that is listed as impaired  
11 by nutrients...shall, at a minimum, adopt the department’s [model ordinance].”

12  
13 **NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY**  
14 **COMMISSIONERS OF HERNANDO COUNTY, FLORIDA:**

15  
16 **SECTION I. AMENDING CHAPTER 28, CREATING ARTICLE XII**  
17 **(FERTILIZER APPLICATION ORDINANCE).**

18  
19 Chapter 28, Article XII (Fertilizer Application Ordinance) is created to read as  
20 follows, with underlined language added and strike through language deleted:

21  
22 **Article XII. Regulation of the Use of Fertilizers Containing Nitrogen**  
23 **and/or Phosphorus.**

24  
25 **Sec. 28-505. Purpose and Intent.**

26  
27 This Ordinance regulates the proper use of fertilizers by any applicator;  
28 requires proper training of Commercial and Institutional Fertilizer  
29 Applicators; establishes training and licensing requirements; establishes a  
30 Prohibited Application Period; specifies allowable fertilizer application  
31 rates and methods, fertilizer-free zones, low maintenance zones, and  
32 exemptions. The Ordinance requires the use of Best Management  
33 Practices which provide specific management guidelines to minimize  
34 negative secondary and cumulative environmental effects associated with  
35 the misuse of fertilizers. These secondary and cumulative effects have  
36 been observed primarily in and on Hernando County’s springs, and also in  
37 and on Hernando County’s natural and constructed stormwater  
38 conveyances, rivers, creeks, canals, lakes, estuaries and other water  
39 bodies. Collectively, these water bodies are an asset critical to the  
40 environmental, recreational, cultural and economic well-being of Hernando  
41 County residents and the health of the public. Overgrowth of algae and  
42 vegetation also hinders the effectiveness of flood attenuation provided by  
43 natural and constructed stormwater conveyances. Regulation of nutrients,  
44 including both phosphorus and nitrogen contained in fertilizer, will help  
45 improve and maintain water and habitat quality.

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**Sec. 28-506. Definitions.**

Application or Apply: The actual physical treatment of turf or landscape plants with fertilizer for the purpose of supplying chemical components for healthy growth.

Applicator: Any Person who applies fertilizer on turf and/or landscape plants.

Best Management Practices (BMPs) or Green Industry Best Management Practices (GI-BMPs): Turf and landscape practices or combination of practices based on research, field-testing, and expert review, determined to be the most effective and practicable on-location means, including economic and technological considerations, for improving water quality, conserving water supplies and protecting natural resources. Best Management Practices for Florida fertilizer application that are especially applicable to Hernando County are those developed and promulgated by the University of Florida Institute of Food and Agricultural Sciences (IFAS) and the Florida Department of Environmental Protection (FDEP) including, but not limited to, the most current version of FDEP's "Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries," and, "Best Management Practices for the Enhancement of Environmental Quality on Florida Golf Courses."

Bank: In reference to a waterbody, the slope immediately bordering the normal expanse of water in the applicable body. The top-of-bank is the top of the slope.

Commercial Fertilizer Applicator, or Commercial Fertilizer Application: Any person, except as provided in 482.1562(9), Florida Statutes, who applies fertilizer, or the act of applying fertilizer, for payment or other consideration to property not owned by the person or firm applying the fertilizer or the employer of the applicator.

Fertilize, Fertilizing or Fertilization: Means the application of fertilizer.

Fertilizer: Any substance that contains one or more recognized plant nutrients and promotes plant growth, controls soil acidity or alkalinity, provides other soil enrichment, or, provides other corrective measures to the soil.

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Fertilizer Free Zone: An area a minimum of ten (10) feet wide adjacent to any pond, stream, watercourse, lake, canal, or wetland as measured from the top-of-bank or the face of the seawall.

Heavy Rain: Rainfall events that have occurred, are occurring, or are forecast as likely to occur within the ensuing 24 hours with a total accumulation of 2 inches or more for any portion of Hernando County.

Institutional Applicator. Any person private, non-commercial, or a Commercial Fertilizer Applicator who applies fertilizer for the purpose of maintaining turf and/or landscape plants to areas other than individual private residential properties. Institutional Applicators shall include, but shall not be limited to, owners, managers or employees of public lands, governmental entities, utilities, schools, parks and golf courses, religious institutions, hospitals, community organizations, industrial or business sites and any residential areas maintained in condominium and/or common ownership. Institutional Applicators that are also Commercial Fertilizer Applicators must meet the applicable requirements of this ordinance for Commercial Fertilizer Applicators.

Landscape Plant: Any native or exotic tree, shrub, or groundcover (excluding turf).

Limited Certification for Urban Landscape Commercial Fertilizer Application: A certification issued by the Florida Department of Agriculture and Consumer Services to a commercial applicator that certifies successful completion of required training and testing in University of Florida IFAS Green Industry Best Management Practices (GI-BMPs) pursuant to the requirements of Florida Statutes 482.1562.

Prohibited Application Period: The time period during which application of fertilizers containing nitrogen and/or phosphorus to turf and/or landscape plants is prohibited.

Saturated Soil: A soil in which the voids are filled with water. Saturation does not require flow. For the purposes of this ordinance, soils shall be considered saturated if standing water is present or the pressure of a person standing on the soil causes the release of free water.

Slow or Controlled Release Fertilizer. Nitrogen in a form which delays its availability for plant uptake and use after application, or which extends its availability to the plant significantly longer than a referenced "rapidly available nutrient fertilizer" such as ammonium nitrate or urea.

1                   Turf, Sod, or Lawn: A piece of grass-covered soil held together by  
2 the roots of the grass.

3  
4                   Urban Landscape: Pervious areas on residential, commercial,  
5 industrial, institutional, highway rights-of-way, or other nonagricultural  
6 lands that are planted or maintained with turf or landscape plants. For the  
7 purposes of this section, agriculture has the same meaning as in section  
8 570.02, Florida Statutes.

9  
10                   **Sec. 28-507. Applicability.**

11  
12                   This Ordinance shall be applicable to and shall regulate any and all  
13 applicators of fertilizer and areas of application of fertilizer to urban  
14 landscapes within the unincorporated area of Hernando County, unless  
15 such applicator or application is specifically exempted by the terms of this  
16 Ordinance from the regulatory provisions of this Ordinance. This  
17 Ordinance shall be prospective only, and shall not impair any existing  
18 contracts.

19  
20                   **Sec. 28-508. Timing of Fertilizer Application.**

21  
22                   (a) No applicator shall apply fertilizers containing nitrogen and/or  
23 phosphorus to turf and/or landscape plants during any of the  
24 following Prohibited Application Periods:

25                   (1) during the time period when a Flood Watch or Warning, or a  
26 Tropical Storm Watch or Warning, or a Hurricane Watch or  
27 Warning issued by the National Weather Service is in effect  
28 for any portion of Hernando County, or, the time period  
29 during which heavy rain is occurring, imminent, or forecast  
30 as likely by the National Weather Service for any portion of  
31 Hernando County.

32                   (2) prior to seeding or sodding a site, and for the first 30 days  
33 after seeding or sodding, except when hydro-seeding is used  
34 to accomplish immediate erosion control measures of a  
35 temporary or permanent nature on slopes (e.g., highway  
36 slopes, stormwater structure slopes, wildfire slopes, etc).  
37 Planting of sprigs in turf is exempted from this requirement.

38                   (b) During the season of plant dormancy from January 1 through  
39 March 31, only applicators trained, certified and registered under  
40 the terms of this Ordinance shall apply fertilizer containing nitrogen  
41 or phosphorus to turf. Only slow or controlled release fertilizer shall  
42 be applied during this period of time. The applicator shall maintain,  
43 and provide if requested, onsite verification of the slow or controlled  
44 release product being used during the application.

1           **Sec. 28-509. Fertilizer Free Zones.**  
2

3           Fertilizer shall not be applied within ten (10) feet of the top of bank of any  
4           spring, pond, stream, watercourse, lake, canal, or wetland as defined by  
5           the Florida Department of Environmental Protection (Chapter 62-340,  
6           Florida Administrative Code) or from the top of a seawall unless a  
7           deflector shield, drop spreader, or liquid applicator with a visible and  
8           sharply defined edge, is used, in which case a minimum of 3 feet shall be  
9           maintained. Newly planted turf and/or landscape plants may be fertilized  
10           in this zone once beginning 30 days after planting if needed to allow the  
11           plants to become well established. Caution shall be used to prevent direct  
12           deposition of nutrients into the water. No mowed or cut vegetative  
13           material may be deposited or left remaining in this zone or deposited in  
14           the water. Care should be taken to prevent the over-spray of aquatic  
15           weed products in this zone. If more stringent Hernando County Code  
16           regulations apply, including those contained in Chapter 23, Article VI,  
17           Riverine Protection and other applicable sections, this provision does not  
18           relieve the requirement to adhere to the more stringent regulations.  
19

20           **Sec. 28-510. Fertilizer Content and Application Rates.**  
21

- 22           (a) Fertilizers applied to turf within Hernando County shall be applied in  
23           accordance with requirements and directions provided by Rule 5E-  
24           1.003, Florida Administrative Code, *Labels or Tags*, as amended  
25           from time to time.  
26           (b) Fertilizer containing nitrogen or phosphorus shall not be applied to  
27           turf or landscape plants except as provided in (a) above for turf, or  
28           in University of Florida IFAS recommendations for landscape  
29           plants, vegetable gardens, and fruit trees and shrubs, unless a soil  
30           or tissue deficiency has been verified by an approved test.  
31

32           **Sec. 28-511. Application Practices.**  
33

- 34           (a) Spreader deflector shields are required when fertilizing via rotary  
35           (broadcast) spreaders. Deflectors must be positioned such that fertilizer  
36           granules are deflected away from all impervious surfaces, Fertilizer Free  
37           Zones and water bodies, including wetlands.  
38           (b) Fertilizer shall not be applied, spilled, or otherwise deposited on any  
39           impervious surfaces.  
40           (c) Any fertilizer applied, spilled, or deposited, either intentionally or  
41           accidentally, on any impervious surface shall be immediately and  
42           completely removed to the greatest extent practicable.  
43           (d) Fertilizer released on an impervious surface must be immediately  
44           contained and either legally applied to turf or any other legal site, or  
45           returned to the original or other appropriate container.





1  
2 **Sec. 28-515. Applicator Licensing and Certification.**  
3

4 (a) By January 1, 2014, all Commercial Fertilizer Applicators within  
5 Hernando County shall have and carry in their possession at all  
6 times when applying fertilizer, a Limited Certification for Urban  
7 Landscape Commercial Fertilizer Application or other approved  
8 evidence of certification by the Florida Department of Agriculture  
9 and Consumer Services as a commercial applicator per 5E-  
10 14.117(18) Florida Administrative Code.

11 (b) By January 1, 2014, all Institutional Applicators shall be supervised  
12 on site during the application of fertilizer by at least one Institutional  
13 Applicator who shall have and carry in their possession at all times  
14 when applying fertilizer, a University of Florida IFAS "Florida-  
15 Friendly Best Management Practices for Protection of Water  
16 Resources by the Green Industries" training certificate.  
17

18 **Sec. 28-516. Registration of Commercial Fertilizer Applicators and**  
19 **Institutional Applicators.**  
20

21 (a) By June 1, 2014, all Commercial Fertilizer Applicators shall register  
22 with Hernando County prior to performing professional landscaping  
23 in unincorporated Hernando County. Commercial Fertilizer  
24 Applicators must present an active "Limited Certification for Urban  
25 Landscape Commercial Fertilizer Application" to successfully  
26 complete registration. Commercial Fertilizer Applicators shall  
27 renew their Hernando County registration concurrent with renewal  
28 of their "Limited Certification for Urban Landscape Commercial  
29 Fertilizer Application."

30 (b) By June 1, 2014, all Institutional Applicators of fertilizer shall  
31 register with Hernando County prior to applying fertilizer in  
32 unincorporated Hernando County. Any Institutional Applicators  
33 seeking to register and remain registered with the County shall  
34 have at least one (1) employee who holds an active University of  
35 Florida IFAS "Florida-Friendly Best Management Practices for  
36 Protection of Water Resources by the Green Industries" training  
37 certificate. Institutional Applicators shall renew their registration  
38 every four years with presentation of an updated training certificate  
39 showing the completion of Continuing Education Units (CEUs) that  
40 meet state standards.

41 (c) Hernando County may assess initial and annual registration fees  
42 sufficient to cover the cost of administration of the registration  
43 program.  
44  
45

1           **Sec. 28-517. Violations.**  
2

3           (a) Any person applying fertilizers in violation of any stipulation or  
4           performance standard contained herein shall be subject to the  
5           remedies and/or penalties as provided for in this article.  
6

7           **Sec. 28-518. Enforcement; Remedies; and Penalties.**  
8

9           (a) Personnel of the County in the performance of their assigned duties  
10           or functions to enforce the provisions of this Article may enter upon  
11           any property during normal work hours of the County and make  
12           examination to determine code compliance that do not occasion  
13           damage or injury to private property or otherwise impair private  
14           property or personal rights.

15           (b) Remedies:

16           (1) Personnel of the County in the performance of their assigned  
17           duties or functions may issue notice to all violators of this  
18           fertilizer ordinance and shall order that such violations  
19           cease.

20           (2) If necessary, the governing body, or any appropriate official  
21           of the governing body, may institute appropriate action in a  
22           court of competent jurisdiction to enjoin any violation of the  
23           county's land development regulations and/or this zoning  
24           ordinance.

25           (3) In addition, any violation hereunder may be prosecuted as  
26           described in Chapter 2, Article III of the Hernando County  
27           Code of Ordinances, as amended or renumbered from time  
28           to time.

29           (c) Penalties: Any violation of the County's fertilizer ordinance may be  
30           prosecuted as follows:

31           (1) Whenever in the County's fertilizer ordinance any act is  
32           prohibited, or is made or declared to be unlawful, or an  
33           offense; or whenever in such ordinance the doing of any act  
34           is required, or the failure to do any act is declared to be  
35           unlawful, then such act or failure to act shall be deemed a  
36           misdemeanor for the purposes of this fertilizer ordinance.

37           (2) Each violation hereunder shall be deemed a separate  
38           offense and a separate offense shall be deemed committed  
39           on each day during or on which a violation occurs or  
40           continues. In assessing fines hereunder, the special master  
41           may consider whether the violator has been convicted of or  
42           pleaded guilty to prior violations of the County's fertilizer  
43           ordinance,

44           (3) If any of the fines or penalties enumerated herein are  
45           invalidated by a court of competent jurisdiction such

1 invalidation shall be severable from the rest of the provisions  
2 in this fertilizer ordinance and such invalidity shall not extend  
3 to any other provision of this fertilizer ordinance including the  
4 statutory penalty for violation of County ordinances.

5 (4) If any of the fines or penalties enumerated herein are  
6 invalidated, then the statutory penalty for violation of County  
7 ordinances shall be deemed to automatically apply to any  
8 violation of this fertilizer ordinance and in any event the court  
9 shall have the absolute right and discretion to impose the  
10 fines or penalties, or both, provided for in the statutory  
11 provision for violation of County ordinances instead of the  
12 fines and penalties provided for herein.

13  
14 **Secs. 28-519 – 28-599. Reserved.**

15  
16 **SECTION II. SEVERABILITY.** It is declared to be the intent of the Board of  
17 County Commissioners that if any section, subsection, clause, sentence, phrase,  
18 or provision of this Ordinance is for any reason held unconstitutional or invalid,  
19 the invalidity thereof shall not affect the validity of the remaining portions of this  
20 ordinance.

21  
22 **SECTION III. CONFLICTING PROVISIONS.** Special acts of the Florida  
23 Legislature applicable only to unincorporated areas of Hernando County,  
24 Hernando County ordinances, County resolutions, or parts thereof, in conflict with  
25 this Ordinance are hereby superseded by this Ordinance to the extent of such  
26 conflict except for ordinances concerning either adoption or amendment of the  
27 Comprehensive Plan, pursuant to Chapter 163, Part II, Florida Statutes.

28  
29 **SECTION IV. FILING WITH THE DEPARTMENT OF STATE.** The clerk shall be  
30 and is hereby directed forthwith to send a certified copy of this Ordinance to the  
31 Bureau of Administrative Code, Department of State, R.A. Gray Bldg., Room  
32 101, 500 S. Bronough Street, Tallahassee, FL 32399-0250.

33  
34 **SECTION V. INCLUSION IN CODE.** It is the intention of the Board of County  
35 Commissioners of Hernando County, Florida, and it is hereby provided, that the  
36 provisions of this Ordinance shall become and be made a part of the Code of  
37 Ordinances of Hernando County, Florida. To this end, any section or subsection  
38 of this Ordinance may be renumbered or re-lettered to accomplish such intention,  
39 and the word "ordinance" may be changed to "section," "article," or other  
40 appropriate designation. Section II through Section VI shall not be codified.

41  
42 **SECTION VI. EFFECTIVE DATE.** This Ordinance shall take effect immediately  
43 upon filing with the Department of State.

DRAFT DOCUMENT: Note: additions/deletions = language proposed for addition/deletion to existing Code provisions.

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**DULY PASSED AND ADOPTED IN REGULAR SESSION THIS** 12<sup>th</sup>  
**DAY OF** November, 2013

**BOARD OF COUNTY COMMISSIONERS  
HERNANDO COUNTY, FLORIDA**

Attest: Sherry L. Crum, Deputy Clerk By: David D. Russell, Jr.  
DONALD C. BARBEE JR. DAVID D. RUSSELL, JR.  
CHAIRMAN



**Approved as to Form and  
Legal Sufficiency**

By: [Signature]  
County Attorney's Office