

City of South Bay

335 S. W. 2ND AVENUE

South Bay, Florida 33493

August 15, 2013

Mr. Allen P. Hubbard, P.E.
NPDES Storm water Section
Fla. Department of Environmental Protection
2600 Blair Stone Road
Tallahassee, Fla. 32399-2400

Dear Mr. Hubbard,

Provided below are **Responses** to the Year 2, Cycle 3 Annual Report
Comments – Request for Additional Information.

Comment 1) – The City of South Bay did not report a Fiscal analysis in
Section III A and B of the annual report.

Response: The correct Section for fiscal analysis is Section IV A and B.
The Stormwater program for the current reporting year is \$3,000. The
Stormwater program for the subsequent reporting year is \$3,000. The
amended section of the report is attached.

Comment 2) - The City of South Bay did not provide a complete adopted
Florida Friendly Fertilizer Ordinance or Landscape Ordinance with all the
elements of a fertilizer Ordinance.

Response: The City of South Bay does not have a program for use of
Herbicides or Fertilizers. See attached document.

Comment 3) – The City of South Bay did not use the Department approved
FSA Load Reduction Tool in the street sweeping program for TN and TP
reduction in Part III A.3.

Response: This item was incorrectly reported. Part III A.3 has been amended to reflect calculated load reductions of total Nitrogen and total Phosphorus. See attached calculations.

I hope these **Responses** provide adequate explanations and/or corrections to the Cycle 3 Annual Report Comments. If you have any questions or comments regarding this matter, please contact me.

Respectfully,


Edgar W. Kerr
Public Works Director

APPENDIX

Palm Beach County MS4 NPDES Permit Cycle 3, Year 2 Annual Report Comments

The Department has determined that additional information is needed to properly assess and evaluate the completeness of the following MS4 NPDES Permit Annual Reports. The Annual Reports will be considered administratively complete when the permittee provides satisfactory written responses to the items detailed below. Please provide the responses in writing to the Department **during the audit meeting**.

Areas of New Development and Significant Redevelopment

Part II.A.2. of the MS4 permit requires co-permittees to review current local codes and LDRs to reduce stormwater impacts for new and existing development. Provide a summary that includes:

- a) a description of the current and proposed techniques aimed at reducing the stormwater impact of new development and areas of significant redevelopment that are included within the applicable codes and regulations;
- b) a description of innovative stormwater planning techniques, including those described above, recommended for possible future incorporation into the codes and regulations (beyond what may be currently in draft); and,
- c) a plan for implementing changes to codes and regulations.

The following co-permittees did not include a review of local codes in their Annual Reports:

City of Riviera Beach

City of Lake Worth

Village of Wellington

Town of Juno Beach

Town of Palm Beach Shores

Recommendation: Provide a review of local codes pertaining to new development and redevelopment.

Stormwater Management Program Resources

Part II.F. of the MS4 permit requires each permittee to report the SWMP budget in the Annual Report. If program resources have been decreased from the previous year, a discussion of the impacts on the implementation of the SWMP shall be provided. Each permittee shall also have a source of funding for implementing all the other requirements included within this permit.

The following co-permittees did not report a fiscal analysis in Section ^{IV} II.A and B of the annual report:

* City of South Bay

Town of South Palm Beach

The following co-permittees did not provide a discussion on the impacts of resource decreases to the implementation of the SWMP:

City of Belle Glade

City of Greenacres

Town of Juno Beach

Village of North Palm Beach

Village of Royal Palm Beach

A. ~~1,000~~ 3,000

B. 1,000 3,000

SECTION III. MONITORING PROGRAM

A.	<p>Provide a brief statement as to the status of monitoring plan implementation:</p> <p><i>The monitoring plan is carried out as a joint effort by the Palm Beach County Co-permittees. Please see the Palm Beach County Joint Annual Report for the monitoring information.</i></p>
B.	<p>Provide a brief discussion of the monitoring results to date:</p> <ul style="list-style-type: none"> <i>DEP Note: See Part V of the permit for the monitoring requirements. Each permittee must discuss the monitoring results as it relates to the implementation and effectiveness of their SWMP.</i>
C.	<p>Attach a monitoring data summary, as required by the permit.</p>

SECTION IV. FISCAL ANALYSIS

A.	<p>Total expenditures for the NPDES stormwater management program for the current reporting year: \$3,000</p> <p><i>DEP Note: If program resources have decreased from the previous year, attach a discussion of the impacts on the implementation of the SWMP as per Part II.F of the permit.</i></p>
B.	<p>Total budget for the NPDES stormwater management program for the subsequent reporting year: \$3,000</p>

SECTION V. MATERIALS TO BE SUBMITTED WITH THIS ANNUAL REPORT FORM

Only the following materials are to be submitted to the Department along with this fully completed and signed Annual Report Form (check the appropriate box to indicate whether the item is attached or is not applicable):

Attached	N/A	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	***DEP Note: Please complete Checklists A & B at the end of the tailored form.*** Any additional information required to be submitted in this current annual reporting year in accordance with Part III.A of your permit that is not otherwise included in Section VII below.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	A monitoring data summary as directed in Section III.C above and in accordance with Rule 62-624.600(2)(c), F.A.C.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Year 1 ONLY: An inventory of all known major outfalls and a map depicting the location of the major outfalls (hard copy or CD-ROM) in accordance with Rule 62-624.600(2)(a), F.A.C.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Year 3 ONLY: The estimates of pollutant loadings and event mean concentrations for each major outfall or each major watershed in accordance with Rule 62-624.600(2)(b), F.A.C.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Year 4 ONLY: Permit re-application information in accordance with Rule 62-624.420(2), F.A.C.

DO NOT SUBMIT ANY OTHER MATERIALS
(such as records and logs of activities, monitoring raw data, public outreach materials, etc.)

SECTION VI. CERTIFICATION STATEMENT AND SIGNATURE

The Responsible Authority listed in Section I.F above must sign the following certification statement, as per Rule 62-620.305, F.A.C.:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based upon my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Name of Responsible Authority (type or print): Edgar W. KERR

Title: _____

Signature:  Date: 8/31/13

City of Boynton Beach
Town of Cloud Lake
Town of Palm Beach

Recommendation: Provide fiscal analysis and discussion on the impacts of resource decreases to the implementation of the SWMP.

Florida-friendly Fertilizer Ordinance

Part III.A.6. of the MS4 permit requires that if a Florida-Friendly Landscaping Ordinance is not adopted, all local governments within the watershed of a nutrient-impaired water body shall adopt the Department's Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes or an ordinance that includes all of the requirements set forth in the Model Ordinance. The ordinance is required to be adopted within 24 months of permit issuance.

The following co-permittees have not provided a complete adopted Florida-Friendly Fertilizer Ordinance or Landscape Ordinance with all the elements of a fertilizer ordinance:

<u>City of Atlantis:</u>	Reported N/A; no justification indicated in Part III.A.6.
<u>City of Belle Glade:</u>	Reported not adopted; not attached.
<u>City of Boca Raton:</u>	Reported not adopted.
<u>City of Boynton Beach:</u>	Landscape Ordinance does not contain all fertilizer ordinance elements.
<u>Town of Cloud Lake:</u>	Reported not adopted; not attached.
<u>City of Delray Beach:</u>	Landscape Ordinance does not contain all fertilizer ordinance elements.
<u>Town of Juno Beach:</u>	Reported N/A; no justification indicated in Part III.A.6.
<u>Town of Jupiter:</u>	Reported not adopted.
<u>Town of Jupiter Inlet Colony:</u>	Reported not adopted; not attached.
<u>Town of Lake Clarke Shores:</u>	Reported N/A; no justification indicated in Part III.A.6.
<u>City of Lake Worth:</u>	Reported not adopted.
<u>Town of Lantana:</u>	Reported not adopted.
<u>Village of North Palm Beach:</u>	Reported not adopted.
<u>Town of Palm Beach:</u>	Reported N/A; no justification indicated in Part III.A.6.
<u>Town of Palm Beach Shores:</u>	Reported N/A; no justification indicated in Part III.A.6.
<u>City of Riviera Beach:</u>	Reported N/A; no justification indicated in Part III.A.6.
<u>City of South Bay:</u>	Reported N/A; no justification indicated in Part III.A.6.
<u>Village of Tequesta:</u>	Landscape Ordinance does not contain all fertilizer ordinance elements.
<u>City of West Palm Beach:</u>	Adopted ordinance does not contain all fertilizer ordinance elements.

Recommendations:

- If MS4 reported N/A, provide justification that no ordinance is required.
- If an ordinance was not submitted with the Annual Report, submit an ordinance for review and approval.
- If an ordinance has not been adopted, submit a schedule for adopting the ordinance.
- If the ordinance is incomplete, it will be forwarded to Dr. Mike Thomas, with the Department's Nonpoint Source Management Section for further modifications. The co-permittee should work with Dr. Thomas to finalize the submitted ordinance.

The city of South Bay

Pesticide, Herbicide & Fertilizer Minimization Procedures

In accordance with our MS4 permit, the City of South Bay continues to endeavor to minimize its use of pesticides, herbicides, and fertilizers on public property. The city does not currently have a program for use of herbicides or fertilizers. The procedures used to achieve this are as follows:

Pesticides & Herbicides

Only Employees or contractors, who have proof of certification and licensing by the Florida Department of Agriculture and Consumer Services (FDACS) for the application of pesticides and herbicides, are allowed to apply these products.

Town of Lantana
Village of North Palm Beach
Town of Ocean Ridge
Town of Palm Beach
City of Palm Beach Gardens
Town of Palm Beach Shores
Village of Royal Palm Beach
City of South Bay
Village of Tequesta
Village of Wellington
City of West Palm Beach
Palm Beach County

Recommendation: Calculate load reductions of Total Nitrogen and Total Phosphorus with the FSA Load Calculator, using pounds of dry solids or volume collected. The calculator may be found at the following link:
<http://www.florida-stormwater.org/assets/FSAEF/Research/MS4/final%20ms4%20load%20reduction%20tool%20version%201%202%20corrected.xlsx>

Certification and Signature

Part VI.C. of the MS4 permits requires that the Annual Report be signed and certified in accordance with Rule 62-620.305, F.A.C.

The following co-permittees’ annual reports did not contain the signature of the Responsible Authority or Point of Contact.

Town of Palm Beach Shores
Florida Turnpike Enterprise

Recommendations: Provide a copy of the signed and dated signature page for the Year 2 Annual Report.

SWMP Inspection Schedule

All co-permittees shall meet the minimum inspection requirements detailed in Table II.A.1.a. of the MS4 permit. The following co-permittees did not meet the same:

<u>City of Atlantis</u>	Did not report Illicit Discharge inspection numbers.
<u>City of Belle Glade</u>	Did not perform proactive Illicit Discharge inspections.
<u>City of Boca Raton</u>	Did not report percentage of inspections.
<u>City of Boynton Beach</u>	Only inspected 11% of swales; did not inspect pollution control boxes.
<u>City of Delray Beach</u>	Did not inspect major stormwater outfalls. Did not report the percentage of exfiltration trench inspections.
<u>FDOT District 4</u>	Did not inspect ditches.
<u>Florida Turnpike Enterprise</u>	Did not report Illicit Discharge inspections.
<u>Town of Jupiter</u>	Did not inspect swales or pipes.
<u>City of Lake Worth</u>	The high risk facility total reported does not match the number of facilities reported.
<u>Town of Manalapan</u>	Did not report illicit discharge inspections.
<u>Town of Mangonia Park</u>	Did not inspect major stormwater outfalls. Did not report the

SECTION VII. STORMWATER MANAGEMENT PROGRAM (SWMP) SUMMARY TABLE

A.	B.	C.	D.	E.	F.
Permit Citation/ SWMP Element	Permit Requirement/Quantifiable SWMP Activity	Number of Activities Performed	Documentation / Record	Entity Performing the Activity	Comments
	Inlets / catch basins / grates				
	Ditches / conveyance swales (miles)				
	ATTACH explanation if any of the minimum inspection frequencies in Table II.A.1.a were <u>not</u> met				
	Year 1 ONLY: Attach a map of all known major outfalls				
Part III.A.2	Areas of New Development and Significant Redevelopment				
	Report the number of significant redevelopment projects reviewed by the permittee for post-development stormwater considerations. Report the number of new development projects reviewed under Part III.A.9.a.				
	DEP Note: Please provide an explanation in Column F for any "0" reported in Column C. This provision DOES NOT APPLY to Indian Trail Improvement District (ITID), Northern Palm Beach County Improvement District (NPBCID), South Indian River Water Control District (SIRWCD)..				
	Number of significant redevelopment projects reviewed				
	Provide in the Year 2 Annual Report the summary report of the review of local codes activity. Provide in the Year 4 Annual Report the follow-up report on plan implementation of modifying codes to allow low impact design BMPs.				
	DEP Note: Refer to Part III.A.2 of the permit for details regarding what the review entails, and what must be included in the summary report and follow-up report. Please provide the title of the attached report in Column D and the name of the entity who finalized the report in Column E. This provision DOES NOT APPLY to ITID, NPBCID, SIRWCD.				
	Year 2 ONLY: Attach the summary report of the review activity				
	Year 4 ONLY: Attach the follow-up report on plan implementation				
Part III.A.3	Roadways				
	Annually review (and revise, as needed) and implement the permittee's written procedures for the litter control program(s) for public streets, roads, and highways, including rights-of-way, employed within the permittee's jurisdictional area and properly dispose of collected material. Implement the program on a monthly, or on an as needed, basis. Report on the litter control program, including the frequency of litter collection, an estimate of the total number of road miles cleaned or amount of area covered by the activities, and an estimate of the quantity of litter collected.				
	DEP Note: Please provide an explanation in Column F for any "0" reported in Column C. In addition, the permittee may choose its own units of measurement for the reporting items. Unit options for the amount of litter include: bags, cubic yards, pounds, tons. Unit options for the amount of area covered by the activity include: square feet, linear feet, yards, miles, acres. If all litter collection is performed by staff or by contractors, but not by both, please remove the non-applicable reporting items.				
	PERMITTEE Litter Control Program: Frequency of litter collection				
	PERMITTEE Litter Control Program: Estimated amount of area maintained (linear feet)				
	PERMITTEE Litter Control Program: Estimated amount of litter collected (cubic yards)				
	CONTRACTOR Litter Control Program: Frequency of litter collection	2/wk	Contract Services	SWS	Contract
	CONTRACTOR Litter Control Program: Estimated amount of area maintained (linear feet)	20 miles	Contract Services	SWS	Contract

SECTION VII. STORMWATER MANAGEMENT PROGRAM (SWMP) SUMMARY TABLE

A.	B.	C.	D.	E.	F.
Permit Citation/ SWMP Element	Permit Requirement/Quantifiable SWMP Activity	Number of Activities Performed	Documentation / Record	Entity Performing the Activity	Comments
	CONTRACTOR Litter Control Program: Estimated amount of litter collected (cubic yards)	105 cy/day	Contract Services	SWS	Contract
	If an Adopt-A-Road or similar program is implemented, report the total number of road miles cleaned and an estimate of the quantity of litter collected.				
	DEP Note: Please provide an explanation in Column F for any "0" reported in Column C. The permittee may choose its own unit of measurement for the amount of litter collected. Unit options include: bags, cubic yards, pounds, tons. If an Adopt-A-Road or similar program is not implemented by the permittee, please note that in Column F but do not remove the Adopt-A-Road Program reporting items.				
	Keep PBC Beautiful Trash Pick-up Events: Total miles cleaned	10 miles	See-attachment	City of SB	Site report
	Keep PBC Beautiful Trash Pick-up Events: Estimated amount of litter collected (cubic yards)	500lbs	See-attachment	City of SB	Site report
	Adopt-A-Road Program: Total miles cleaned	N/A			
	Adopt-A-Road Program: Estimated amount of litter collected (cubic yards)	N/A			
	Report on the street sweeping program, including the frequency of the sweeping, total miles swept, an estimate of the quantity of sweepings collected, and the total nitrogen (TN) and total phosphorus (TP) loadings that were removed by the collection of sweepings. If no street sweeping program is implemented, provide the explanation of why not in the Year 1 Annual Report.				
	DEP Note: Please provide an explanation in Column F for any "0" reported in Column C. Also, the permittee may choose its own unit of measurement for the amount of sweeping material collected. Unit options include: cubic yards, pounds, tons.				
	DEP Note: If the permittee has curbs and gutters but no street sweeping program is implemented, the permittee must provide an explanation of why not in the Year 1 Annual Report. Refer to Part III.A.3 of the permit for the information that must be included in the explanation (including the alternate BMPs used or planned in lieu of street sweeping). Please provide the title of the attached explanation in Column D and the name of the entity who finalized the explanation in Column E.				
	Frequency of street sweeping	17 Days	Sweeper log	PW	FY 2012
	Total miles swept (per year)	127	Sweeper log/map	PW	FY 2012
	Estimated quantity of sweeping material collected (cubic yards)	19CY	invoices	PW	FY 2012
	Total nitrogen loadings removed (pounds)	16	FSA	PW	
	Total phosphorus loadings removed (pounds)	25	FSA	PW	
	Year 1 ONLY: If have curbs and gutters, attach explanation of why no street sweeping program and the alternate BMPs used or planned		N/A	N/A	
	Annually review (and revise, as needed) and implement the permittee's written standard practices to reduce the pollutants in stormwater runoff from areas associated with road repair and maintenance, and from permittee-owned or operated equipment yards and maintenance shops that support road maintenance activities. Report the number of applicable facilities and the number of inspections conducted for each facility.				
	DEP Note: The permittee needs to "customize" this section by listing the names of the applicable facilities in Column B and the number of inspections of each facility in Column C. Add more rows if necessary. If "0" is reported in Column C for the number of inspections conducted and the permittee has one or more applicable facilities, please provide an explanation in Column F for why no inspections were conducted. In addition, if the same facility is applicable under both Parts III.A.3 and III.A.5 of the permit, the same site inspection can count towards both inspection requirements as long as it covers the applicable waste area(s). Be sure to report the site inspection under both Parts III.A.3 and III.A.5.				
		Number of Inspections			
	Name of facility #1:				
	Name of facility #2:				

Enter Volume of Solids⁽¹⁾ Removed - Calculate Equi

FSA 2012

For Wet or Dry Solids by Volume ⁽²⁾			
Category of Maintenance Activity	Enter Volume of Collected Solids Cubic Feet	Enter Dry Bulk Density Solids Lb/C.F.	Calculated Weight of Dry Solids (Pounds)
Street Sweepings	513	85	43,554
Catch Basin Cleanout	0	85	0
BMP Cleanout	0	85	0

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GREEN Denotes Cel

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BLUE Denotes Calcu

- NOTES:
1. "Particulate Matter" from the FSA Final Report is defined as "Solids" for
 2. For measurements of volume, include approximate dry bulk density; use the default bulk density of 1.36 or 84.9 pounds per cubic foot until cc

Calculated Nutrient Load Reductions from MS4 Maintenance Practices

FSA 2012

	Input and Output	Subtotal TP Removed (Kilograms)	Subtotal TP Removed (Pounds)
TOTAL PHOSPHORUS			
Street Sweepings - Dry Mass Collected (Kg)	19,756		
Amount of TP Removed (Kilograms)	7	7	16
Catch Basins - Dry Mass Collected	0		
Amount of TP Removed (Kilograms)	0	0	0
BMP - Dry Mass Collected	0		
Amount of TP Removed (Kilograms)	0	0	0
GRAND TOTAL TP REMOVED (KILOGRAMS) =		7	
GRAND TOTAL TP REMOVED (POUNDS) =			16

	Input and Output	Subtotal TN Removed (Kilograms)	Subtotal TN Removed (Pounds)
TOTAL NITROGEN			
Street Sweepings - Dry Mass Collected (Kg)	19,756		
Amount of TN Removed (Kilograms)	11	11	25
Catch Basins - Dry Mass Collected	0		
Amount of TN Removed (Kilograms)	0	0	0
BMP - Dry Mass Collected	0		
Amount of TN Removed (Kilograms)	0	0	0
GRAND TOTAL TN REMOVED (KILOGRAMS) =		11	
GRAND TOTAL TN REMOVED (POUNDS) =			25

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ORDINANCE NO. 09-2013

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF SOUTH BAY, PALM BEACH COUNTY, FLORIDA, FOCUSING ON EXCESSIVE NUTRIENT LEVELS IN PALM BEACH COUNTY WATER BODIES; PROVIDING FOR TITLE; PROVIDING FOR DEFINITIONS; PROVIDING FOR FINDINGS; PROVIDING FOR PURPOSE AND INTENT; PROVIDING FOR APPLICABILITY; PROVIDING FOR TIMING OF FERTILIZER APPLICATIONS; PROVIDING FOR FERTILIZER FREE ZONES; PROVIDING FOR FERTILIZER CONTENT AND APPLICATION RATES; PROVIDING FOR FERTILIZER APPLICATION PRACTICES; PROVIDING FOR MANAGEMENT OF GRASS CLIPPINGS AND VEGETATIVE MATTER; PROVIDING FOR EXEMPTIONS; PROVIDING FOR TRAINING; PROVIDING FOR LICENSING OF COMMERCIAL APPLICATORS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR PENALTIES; PROVIDING FOR APPEAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR ENFORCEMENT; PROVIDING FOR CAPTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

25 **WHEREAS**, pursuant to Section 303(d) of the federal Clean Water Act and the resulting
26 Florida Impaired Waters Rule (Chapter 62-303, Florida Administrative Code), the Florida
27 Department of Environmental Protection (FDEP) has classified specific water bodies in Palm
28 Beach County as “impaired” as a result of the presence of excessive nutrients; and

29 **WHEREAS**, Florida Statute, Section 403.9337 requires local governments located within
30 the watershed of a water body or water segment that is listed as impaired by nutrients pursuant
31 to Florida Statute, Section 403.067, adopt an ordinance for Florida-Friendly™ fertilizer use on
32 urban landscapes; and

33 **WHEREAS**, the (FDEP) on the 2nd day of March 2011, issued its Palm Beach County
34 Municipal Separate Storm Sewer System Permit No. FLS 000018-003 (hereinafter referred to
35 as the “MS4 Permit”) to forty-one (41) governmental entities including The City of South Bay;
36 and

1 **WHEREAS**, the MS4 permit requires local governments within the watershed of a
2 nutrient impaired water body to adopt FDEP's Model Ordinance for Florida Friendly Fertilizer
3 Use on Urban Landscapes or an Ordinance that includes all the requirements set forth in the
4 Model Ordinance; and

5 **WHEREAS**, surface water runoff and base flow runoff leaves residential neighborhoods,
6 commercial centers, industrial areas, and other lands of Palm Beach County and enters into
7 natural and artificial stormwater and drainage conveyances and natural water bodies in Palm
8 Beach County; and

9 **WHEREAS**, phosphorus and nitrogen, the primary nutrients associated with the
10 degradation of surface water, are commonly the primary components of fertilizer for turf and
11 landscape application; and

12 **WHEREAS**, the quality of streams, lakes, and wetlands is important to environmental,
13 economic, and recreational prosperity and to the health, safety, and welfare of the residents of
14 Palm Beach County; and

15 **WHEREAS**, algae blooms and accelerated growth of aquatic weeds in Palm Beach
16 County's water bodies have heightened community concerns about water quality and
17 eutrophication of surrounding waters; and

18 **WHEREAS**, it is generally recognized that Eastern Palm Beach County soils naturally
19 have adequate phosphorus content for most vegetative needs and that additional phosphorus is
20 therefore only occasionally needed to create or maintain a vibrant landscape; and

21 **WHEREAS**, it has been recognized that proper application of slow-release nitrogen
22 sources is more efficiently used by plants and less likely to leach or runoff; and

23 **WHEREAS**, this Ordinance is part of a regulatory program to address nonpoint sources
24 of nutrient pollution which is scientifically based, and economically and technically feasible; and

WHEREAS, in the process of adoption of this Ordinance, the City Commission of the City of South Bay has considered scientific information, including input from the Department of Environmental Protection, the Department of Agriculture and Consumer Services, and the University of Florida Institute of Food and Agricultural Sciences.

WHEREAS, the City Commission of the City of South Bay has determined that the approval of the Fertilizer Friendly Use Regulations contained herein serve a valid public purpose.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY
OF SOUTH BAY, FLORIDA, that:

SECTION I. Appendix A, Article XIX, Landscaping Requirements, is hereby amended by
Adding a Fertilizer Friendly Use Ordinance, as follows:

FERTILIZER FRIENDLY USE ORDINANCE

SECTION 19.6. Title

This section shall be known as the “Fertilizer-Friendly Use Ordinance” Which is required to be adopted by Section 403.9337, Florida Statutes (2011), for any municipality located within the watershed of a water body or water segment that is listed as impaired by nutrients pursuant to Section 403.067, Florida Statutes (2011).

SECTION 19.7. Definitions

1. “Application” or “Apply” means the actual physical deposition of fertilizer to turf or landscape plants.

2. “Applicator” means any person who applies fertilizer on turf and/or landscape plants in The City of South Bay.

3. "Approved Test" means a soil test from the University of Florida, government, or other commercial licensed laboratory that regularly performs soil testing and recommendations.

1 4. “Best Management Practices (CBMP’s)” means turf and landscape practices or
2 combination of practices based on research, field-testing, and expert review, determined to be
3 the most effective and practical site-specific means, including economic and technological
4 considerations, for improving water quality, conserving water supplies and protecting natural
5 resources.

6 5. “Code Enforcement Officer”, “Official”, or “Inspector” means any designated
7 employee or agent of The City of South Bay whose duty it is to enforce codes and ordinances
8 enacted by The City of South Bay.

9 6. “Commercial Fertilizer Applicator” except as provided in section 482.1562(9),
10 F.S., means any person who applies fertilizer for payment or other consideration to property not
11 owned by the person or firm applying the fertilizer or the employer of the applicators.

12 7. “Fertilizing”, or “Fertilization” means the act of applying fertilizer to turf,
13 specialized turf, or landscape plants.

14 8. “Fertilizer” means any substance or mixture of substances that contains one or
15 more recognized plant nutrients and promotes plant growth, or controls soil acidity or alkalinity,
16 or provides other soil enrichment, or provides other corrective measures to the soil.

17 9. “Institutional Applicator” means any person, other than a private, non-commercial
18 or a Commercial Applicator (unless such definitions also apply under the circumstances), that
19 applies fertilizer for the purpose of maintaining turf and/or landscape plants. Institutional
20 Applicators shall include, but shall not be limited to, owners, managers, or employees of public
21 lands, schools, parks, religious institutions, utilities, industrial or business sites and any
22 residential properties maintained in condominium and/or common ownership.

23 10. “Landscape Plant” means any native or non-native tree, shrub, or groundcover
24 (excluding turf).

25 11. “Pasture” means land managed for livestock grazing.

1 12. “Person” means any natural person, business, corporation, limited liability
2 company, partnership, limited partnership, association, club, organization, and/or any group of
3 people acting as an organized entity.

4 13. “Prohibited Application Period” means the time period during which a Flood
5 Watch or Warning, a Tropical Storm Watch or Warning, or a Hurricane Watch or Warning is in
6 effect for any portion of The City of South Bay, issued by the National Weather Service, or if
7 heavy rain (2 inches or more within a twenty-four (24) hour period) is likely.

8 14. “Saturated Soil” means a soil in which the voids are filled with water. Saturation
9 does not require flow. For the purposes of this Ordinance, soils shall be considered saturated if
10 standing water is present or the pressure of a person standing on the soil causes the release of
11 free water.

12 15. “Slow-Release”, “Controlled Release”, “Timed Release”, “Slowly-Available”, or
13 “Water Insoluble Nitrogen” means nitrogen in a form which delays its availability for vegetative
14 uptake and use after application, or which extends its availability to the vegetative longer than a
15 reference rapid or quick release product.

16 16. “Turf”, “Sod”, or “Lawn” means an area of grass-covered soil held together by the
17 roots of the grass.

18 17. “Urban Landscape” means pervious areas on residential, commercial, industrial,
19 institutional, highway rights-of-way, or other nonagricultural lands that are planted with turf or
20 landscape plants. For the purposes of this section, agriculture has the same meaning as
21 provided in section 570.02, Florida Statutes.

22 **SECTION 19.8. FINDINGS:**

23 As a result of the Florida Department of Environmental Protection’s determination that
24 certain water bodies within Palm Beach County are impaired for excessive nutrient levels, The
25 City of South Bay finds that the best management practices contained in the most recent edition

1 of the “*Florida-Friendly Best Management Practices for Protection of Water Resources by the*
2 *Green Industries*”, are required in this Ordinance.

3 **SECTION 19.9. PURPOSE AND INTENT:**

4 This Ordinance regulates the proper use of fertilizers by any applicator; requires proper
5 training of commercial and institutional fertilizer applicators; establishes training and licensing
6 requirements; establishes a Prohibited Application Period; and specifies allowable fertilizer
7 application rates and methods, fertilizer-free zones, and exemptions. This Ordinance requires
8 the use of Best Management Practices to minimize negative environmental effects associated
9 with excessive nutrients in our water bodies. These environmental effects have been observed
10 in and on Palm Beach County’s natural and constructed stormwater conveyances, rivers,
11 creeks, canals, lakes, estuaries and other water bodies. Collectively, these water bodies are an
12 asset important to the environmental, recreational, cultural and economic well-being of Palm
13 Beach County residents and the health of the public. Overgrowth of algae and vegetation
14 hinder the effectiveness of flood attenuation provided by natural and constructed stormwater
15 conveyances. Regulation of nutrients, including both phosphorus and nitrogen contained in
16 fertilizer, is anticipated to help improve and maintain water and habitat quality.

17 **SECTION 19.10 APPLICABILITY:**

18 This Ordinance shall be applicable to and shall regulate any and all applicators of
19 fertilizer and areas of application of fertilizer to urban landscapes within the area of The City of
20 South Bay unless such application is specifically exempted by Section 19.16 of this Ordinance.
21 This Ordinance shall be prospective only, and shall not impair any existing contracts.

22
23 **SECTION. 19.11. TIMING OF FERTILIZER APPLICATIONS.**

24 1. No applicator shall apply fertilizers containing nitrogen and/or phosphorus to turf
25 and/or landscape plants during the Prohibited Application Period or to saturated soils.

2. Fertilizer containing nitrogen and/or phosphorus 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 (wildfire, etc), or in accordance with the Stormwater Pollution Prevent Plan for that site.

SECTION. 19.12. FERTILIZER FREE ZONES:

Fertilizer shall not be applied within ten (10) feet, or three (3) feet if a deflector shield or drop spreader is used, of any pond, stream, water body, lake, canal, or wetland as defined by the Florida Department of Environmental Protection (Chapter 62-340), Florida Administrative Code or from the top of a seawall or lake bulkhead. Newly planted turf or landscape plants may be fertilized in this zone only for a sixty (60) day period beginning thirty (30) days after planting if needed to allow the vegetation to become well established. Caution shall be used to prevent direct deposition of fertilizer into the water.

SECTION. 19.13. FERTILIZER CONTENT AND APPLICATION RATES:

1. Fertilizers applied to turf within **The City Of South Bay** shall be applied in accordance with requirements and directions provided by Rule 5E-1.003(2), Florida Administrative Code, *Labeling Requirements For Urban Turf Fertilizers*. Under Rule 5E-1.003(2), Florida Administrative Code, required application rate and frequency maximums, which vary by plant and turf types, are found on the labeled fertilizer bag or container.

2. Nitrogen or phosphorus fertilizer shall not be applied to turf or landscape plants except as provided in section (1) above for turf, or in UF/IFAS recommendations for landscape plants, vegetable gardens, and fruit trees and shrubs, unless a soil or tissue deficiency has been verified by an approved test

3. Fertilizer used for sports turf at golf courses shall be applied in accordance with the recommendations in "Best Management Practices for the Enhancement of Environmental

Quality on Florida Golf Courses”, published by the Florida Department of Environmental Protection, dated January 2007, as may be amended. Fertilizer used at park or athletic fields shall be applied in accordance with Rule 5E-1.003(2), Florida Administrative Code.

SECTION. 19.14. FERTILIZER APPLICATION PRACTICES:

1. As required in Section 19.12 of this Ordinance, spreader deflector shields shall be used when fertilizing via rotary (broadcast) spreaders. Deflectors must be positioned such that fertilizer granules are deflected away from all impervious surfaces, fertilizer-free zones and water bodies, including wetlands. 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.

2. Fertilizer released on an impervious surface must be immediately contained and either legally applied to turf or any other legal site, or returned to the original or other appropriate container.

3. In no case shall fertilizer be washed, swept, or blown off impervious surfaces into stormwater drains, ditches, conveyances, or water bodies.

4. Property owners and managers are encouraged to use an Integrated Pest Management (IPM) strategy as currently recommended by the University of Florida Cooperative Extension Service publications.

SECTION. 19.15. MANAGEMENT OF GRASS CLIPPINGS AND VEGETATIVE MATTER:

In no case shall grass clippings, vegetative material, and/or vegetative debris intentionally be washed, swept, or blown on to or into stormwater drains, ditches, conveyances, water bodies, wetlands, sidewalks or roadways. Vegetative material may be placed within the roadway right-of-way, but not over the storm drains, for pickup by the municipality’s vegetative waste hauler.

1 **SECTION 19.16. EXEMPTIONS:**

2 The provisions set forth above in this Ordinance shall not apply to:

3 (a) bona fide farm operations as defined in the Florida Right-to-Farm Act, Section
4 823.14, Florida Statutes.

5 (b) other properties not subject to or covered under the Florida Right-to-Farm Act
6 that have pastures used for grazing livestock.

7 (c) any lands used for bona fide scientific research, including, but not limited to,
8 research on the effects of fertilizer use on urban stormwater, water quality, agronomics, or
9 horticulture.

10 **SECTION 19.17. TRAINING:**

11 1. All commercial and institutional applicators of fertilizer within Palm Beach County
12 shall abide by and successfully complete the six-hour training program in the *“Florida-Friendly*
13 *Best Management Practices for Protection of Water Resources by the Green Industries”* offered
14 by the Florida Department of Environmental Protection through the University of Florida/Palm
15 Beach County Cooperative Extension Service “Florida-Friendly Landscapes” program or an
16 approved equivalent program.

17 2. Non-commercial and non-institutional applicators not otherwise required to be
18 certified, such as private citizens on their own residential property, are encouraged to follow the
19 recommendations of the University of Florida/IFAS “Florida-Friendly Landscape Program” and
20 label instructions when applying fertilizers.

21 **SECTION 19.18 LICENSING OF COMMERCIAL APPLICATORS:**

22 1. All businesses applying fertilizer to turf or landscape plants (including, but not
23 limited to, residential lawns, golf courses, commercial properties, and multi-family and
24 condominium properties) must ensure that the business owner or his/her designee holds the
25 appropriate *“Florida-Friendly Best Management Practices for Protection of Water Resources by*

1 *the Green Industries*” training certificate prior to the business owner obtaining a Local Business
2 Tax Certificate. Owners for any category of occupation which may apply any fertilizer to Turf
3 and/or Landscape Plants shall provide proof of completion of the program to the City of South
4 Bay Tax Collector’s Office. It is the responsibility of the business owner to maintain the “*Florida-
5 Friendly Best Management Practices for Protection of Water Resources by the Green
6 Industries*” certificate to receive their Business Tax Receipt annually.

7 2. After December 31, 2013, all commercial applicators of fertilizer within The City
8 of South Bay shall have and carry in their possession at all times when applying fertilizer,
9 evidence of certification by the Florida Department of Agriculture and Consumer Services as a
10 Commercial Fertilizer Applicator per Rule 5E-14.117(18), Florida Administrative Code.

11 3. All businesses applying fertilizer to turf and/or landscape plants (including, but
12 not limited to, residential lawns, golf courses, commercial properties and multi-family and
13 condominium properties) must ensure that at least one (1) employee has an appropriate
14 “Florida-Friendly Best Management Practices for Protection of Water Resources by the Green
15 Industries” training certificate prior to the business owner obtaining a Local Business Tax
16 Certificate. Standard Business Tax Receipt (BTR and transaction fees shall apply).

17
18
19 **SECTION 19.19. ENFORCEMENT:**

20 1. “*Enforcement*” The provisions of this Ordinance shall be enforced by the City of
21 South Bay Code Enforcement Board or Special Master pursuant to the authority granted by
22 Section 162.01 et. seq., Florida Statutes, as may be amended, and the City of South Bay
23 through its authority to enjoin and restrain any person violating Appendix A, Article XIX,
24 Landscaping Requirements, of The City of South Bay code of Ordinance The Code

2. "Penalties". Failure to comply with the requirements of this Ordinance shall constitute a violation of this Ordinance by either the applicable land owner or the Applicator. Each application which violates this Ordinance shall constitute a serperate and distinct violation.

3. "Disposition of Penalty Funds". Funds generated by penalties imposed under this Ordinance shall be used by the City of South Bay for the administration and enforcement of Section 403.9337, *Florida Statutes (2011)*, and the corresponding Sections of the Ordinance, and to further water conservation and nonpoint pollution prevention activies.

4. *Appeals*. Appeals of administration order of the Special Magistrate shall provide under state law, Section 162.11, *Florida Statutes (2011)*

SECTION 19.20. SEVERABILITY:


If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by a Court of competent jurisdiction to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of this Ordinance.

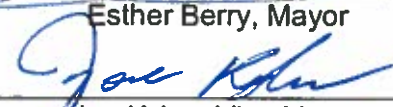
SECTION 19.21 EFFECTIVE DATE:

The provisions of this Ordinance shall become effective upon filing with the Department of State.

PASSED AND ADOPTED on the first reading this 3rd day of September, 2013.

PASSED AND ADOPTED on the second and final reading this 17th day of September, 2013.



Esther Berry, Mayor


Joe Kyles, Vice Mayor


Shirley Walker-Turner, Commissioner

Taranza McKelvin Commissioner

Shanique Scott, Commissioner

Attested

By:


Jessica Figueroa, City Clerk

Approved as to Form and Legality

By:


Thomas Montgomery, City Attorney