

**MARTIN COUNTY, FLORIDA  
INTER-OFFICE MEMORANDUM**

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**TO:** Commissioner DiTerlizzi  
Commissioner, District 5

**DATE:** July 6, 2006

**VIA:** Gary N. Roderick  
Chief, Office of Water Quality

**FROM:** Paul Millar  
Water Resource Manager

**SUBJECT:** Proposed Martin County Fertilizer Ordinance

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In response to your May 9, 2006 request, the Office of Water Quality has investigated issues related to the possible development of a fertilizer ordinance to limit nutrients in particular phosphorus.

The development of mandatory fertilizer Best Management Practices (BMP's) is one of the fast-track projects on the Lake Okeechobee and Estuary Recovery Plan (LOER) announced by Governor Bush in late 2005. The Florida Department of Agriculture and Consumer Services (FDACS) and the Florida Department of Environmental Regulation (FDEP) have the lead on this initiative for the entire LOER boundary (Lake Okeechobee, Caloosahatchee and St. Lucie Watersheds). Their time schedule indicates the implementation of this effort by the end of 2007.

The Martin County Board of County Commissioners has indicated a consideration of adopting an ordinance in advance of that timeframe. Attached is a one page brief sheet on the issue of phosphorus in fertilizers and a draft ordinance based on a draft developed by other states. If it is the consensus of the Martin County Board of Commissioners, we will work with the Cooperative Extension of the Institute of Food and Agricultural Services for the University of Florida, the Florida Department of Agricultural and Consumer Services, the Florida Department of Environmental Protection and the Growth Management Department to develop a proposed draft ordinance to be potentially implemented county-wide.

## **Phosphorus in Fertilizers**

- Phosphorus is essential for plant growth especially, flowering and root development.
- High phosphorus concentrations in our waterways are highly problematic, causing undesirable plant growth and algae blooms.
- The majority of soils in South Florida have adequate available phosphorus for lawns and pasture. Testing can be used to establish both soil and tissue levels.
- Phosphorus availability may be limited by pH and other soil characteristics.
- Lake Okeechobee and Estuary Recovery (LOER) Action Plan calls for FDACs to develop mandatory BMPs for urban fertilizer use including low/no phosphorus fertilizers.
- It is staff's understanding at this time that some states and counties throughout the country including the states of Minnesota, New Jersey and the County of Dane, Wisconsin have adopted zero phosphorus fertilizers.
- Wellington, FL has adopted low (2%) fertilizer ordinance.
- Sarasota County is currently reviewing phosphorus restrictions in fertilizer.
- University of Florida has done a great deal of research on fertilizer BMPs and through Florida Yards and Neighborhoods has had an active public educational program.

Public education and voluntary limitations on fertilizer use have been around for some time. Correct fertilizer, groundcovers with low fertilizer requirements, slow release preferred over fast release, set backs from waterways, not applying right before a big rain, etc. all need to be part of a comprehensive plan.

Martin County needs to set by example. All County groundskeepers need to be trained and certified. Landscape professionals need to be trained and certified. Homeowners need to be educated and regulated.

Low, or no, phosphorus fertilizers (there are more and more on the market every day) need to be developed, appropriately marked, marketed and sold in area home and garden stores with appropriate signage in concert with a pro-active public awareness campaign.

Office of Water Quality  
July 2006

## CHAPTERXX

### ESTABLISHING REGULATIONS FOR LAWN FERTILIZER APPLICATION AND SALE

- XX.01 Authority.
- XX.02 Purpose And Intent.
- XX.03 Applicability.
- XX.04 Definitions.
- XX.05 Regulation Of The Use And Application Of Law Fertilizer.
- XX.06 Exemptions.
- XX.07 Sale of Fertilizer Containing Phosphorus.
  - XX.08 Enforcement.
  - XX.09 Penalty.
  - XX.10 Severability Clause.

**XX.01 AUTHORITY.** This ordinance is adopted by the Martin County Board of County Commissioner under the authority of (\_\_\_\_\_).

**XX.02 PURPOSE AND INTENT.** The Martin County Board of County Commissioners believes that Martin County's lakes, streams, canals, and estuaries are a natural asset, which enhance the environmental, recreational, cultural and economic resources of the area and contribute to the general health and welfare of the public. The Board further finds that regulating the amount of nutrients and contaminants, including phosphorus contained in fertilizer, entering the water bodies will improve and maintain water and habitat quality.

**XX.03 APPLICABILITY.**

- (1) This ordinance applies in all areas of unincorporated Martin County.

**XX.04 DEFINITIONS.**

- (1) *Agricultural use* has the meaning set forth in (\_\_\_\_\_)
- (2) *Fertilizer* has the meaning set forth in (\_\_\_\_\_)
- (3) *Lawn fertilizer* means any fertilizer, whether distributed by property owner, renter or commercial entity, distributed for nonagricultural use, such as for lawns, golf courses, parks and cemeteries. *Lawn fertilizer* does not include fertilizer products intended primarily for garden and indoor plant application.

**XX.05 REGULATION OF THE USE AND APPLICATION OF LAWN FERTILIZER.**

- (1) Effective (date), no person shall apply any lawn fertilizer within Martin County that is labeled as containing more than 0% phosphorus or other compound containing phosphorus, such as phosphate, except as provided in section XX.06.
- (2) No lawn fertilizer shall be applied within five feet of water bodies including, but not limited to canals, wetlands, streams, lakes and coastal waters.
- (3) No person shall apply fertilizer to any impervious surface including parking lots, roadways, and sidewalks. If such application occurs, the fertilizer must be immediately contained and either legally applied to turf or placed in an appropriate container.

**XX.06 EXEMPTIONS.** The prohibition against the use of fertilizer under section XX.05 shall not apply to:

- (1) Newly established turf or lawn areas during the first three months.
- (2) Turf or lawn areas that soil tests, performed within the past three years by a state-certified soil testing laboratory, confirm are below phosphorus levels established by the University of Florida Cooperative Extension Service. The lawn fertilizer application shall not contain an amount of phosphorus exceeding the amount and rate of application recommended in the soil test evaluation.
- (3) Agricultural uses, vegetable and flower gardens, or application to trees or shrubs.
- (4) Yard waste compost, mulches or other similar materials that are primarily organic in nature and are applied to improve the physical condition of the soil.

**XX.07 SALE OF FERTILIZER CONTAINING PHOSPHORUS.**

(1) Effective (date), no person shall sell or offer for sale any lawn fertilizer within Martin County that is labeled as containing more than 0% phosphorus, or other compound containing phosphorus, such as phosphate, except such fertilizer may be sold for use as provided in section XX.06.

(2) Effective (date), no person shall display lawn fertilizer containing phosphorus. Signs may be posted advising customers that lawn fertilizer containing phosphorus is available upon request for uses permitted by s. XX.06.

(3) Effective (date), a sign containing the regulations set forth in this ordinance and the effects of phosphorus on Martin County's waters must be prominently displayed where lawn fertilizers are sold.

**XX.08 ENFORCEMENT.** Violations of this ordinance will be enforced by the Code Enforcement Board of Martin County and/or the Martin County Sheriff's Department.

**XX.09 PENALTY.** Any person who violates section XX.05 in the application of fertilizer at his or her residence shall be subject to a forfeiture of \$25 per violation. Any commercial fertilizer applicator, residential or commercial developer, industrial or commercial owner, or other person who violates section XX.05, and any person who violates section XX.07, shall be subject to a forfeiture of \$50 for the first violation within a twelve month period, \$150 for the second violation within a twelve month period, and \$300 for the third and each subsequent violation within a twelve month period.

**XX.10 SEVERABILITY CLAUSE.** If any section, provision or portion of this ordinance is ruled invalid by a court, the remainder of the ordinance shall not for that reason be rendered ineffective or invalid.