



Office of
**INDIAN RIVER COUNTY
ATTORNEY**

Dylan Reingold, County Attorney
William K. DeBaal, Deputy County Attorney
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MEMORANDUM

TO: Board of County Commissioners
FROM: Dylan Reingold, County Attorney
DATE: November 23, 2021
SUBJECT: Biosolids Moratorium Extension Ordinance - LEGISLATIVE

BACKGROUND.

Class B biosolids are solid, semi-solid, or liquid materials resulting from the treatment of domestic sewage sludge from sewage treatment facilities. Class B biosolids contain phosphorus and nitrogen, which promote algae blooms in surrounding estuaries and watersheds. Class B biosolids were recently being land applied in Indian River County, on properties near waterbodies such as Blue Cypress Lake. Blue Cypress Lake is the first lake along the St. Johns River and is classified by the Florida Department of Environmental Protection as a Class I surface water with a designated use for potable water supplies. There is evidence of significant increases in phosphorus and nitrogen and incidences of harmful and potentially toxic algae blooms in Blue Cypress Lake. There appears to be a correlation between the increases of nutrients in Blue Cypress Lake and the land application of biosolids.

It is important to note that per Florida Statute, the land application of Class B biosolids has been restricted in neighboring counties and ecosystems to the south, such as the St. Lucie River watershed and the Lake Okeechobee watershed, leaving Blue Cypress Lake and the St. Johns River watershed as a cheap alternative for the disposal and land application of Class B biosolids generated in South Florida.

On July 17, 2018, the Indian River County Board of County Commissioners (the "Board") approved an ordinance establishing a 180-day temporary moratorium on all properties within the unincorporated areas of Indian River County involved in land application of Class B biosolids, except where determined to be inconsistent with or preempted by state law or regulation. Additionally, the moratorium is imposed upon the transportation of Class B biosolids for land application within Indian River County, except where determined to be inconsistent with or preempted by state law or regulation. The moratorium on transportation does not apply to currently approved septage/grease haulers as well as Indian River County contracted haulers of domestic wastewater sludge for treatment at the Indian River County Residual Dewatering Facility and disposal at the Indian River County landfill. Finally, under the ordinance, the County Administrator is directed to coordinate with the Florida Department of Environmental Protection and study in depth and report his findings of and any recommendations concerning Class B biosolids land application activities and its potential adverse effect.

On January 8, 2019, the Board approved an ordinance establishing another 180-day temporary moratorium on the land application of Class B biosolids in the unincorporated areas of Indian River County. The moratorium was again renewed by the Board on June 18, 2019, December 10, 2019, and again on June 16, 2020, November 10, 2020, and will expire on January 1, 2022.

During the 2019 legislative session, the Florida Legislature passed HB 829, which contained language that protected the ability of a county to continue to enforce or extend an ordinance, regulation, resolution, rule, moratorium, or policy adopted before February 1, 2019, relating to the land application of Class B biosolids until the ordinance, regulation, resolution, rule, moratorium, or policy is repealed or until the effective date of the rules adopted by FDEP, whichever occurs first. In the 2020 legislative session, the Florida Legislature passed SB 712, which states that “[a] municipality or county may enforce or extend a local ordinance, regulation, resolution, rule, moratorium, or policy, any of which was adopted before November 1, 2019, relating to the land application of Class A or Class B biosolids until the ordinance, regulation, resolution, rule, moratorium, or policy is repealed by the municipality or county.” Thus, the County Attorney’s Office is presenting to the Board another moratorium ordinance consistent with SB 712, which will extend the moratorium to January 1, 2023.

FUNDING.

The cost of publication of the required public notice for the public hearing was \$143.64. The cost was funded from the County Attorney’s Office budget within the General Fund (account number 00110214-034910).

RECOMMENDATION.

The County Attorney’s Office recommends that after the public hearing the Board vote to approve the draft ordinance.

ATTACHMENT(S).

Draft Biosolids Moratorium Ordinance