



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.1.

5/5/2026

Subject:

Extension of Temporary Moratorium on New Applications of Biosolids to Lands within Brevard County

Fiscal Impact:

N/A

Dept/Office:

Natural Resources Management

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing regarding adopting an extension of the moratorium for any new applications of biosolids to lands within Brevard County effective July 8, 2026.

Summary Explanation and Background:

On October 8, 2019, the Board of County Commissioners approved Ordinance 19-20, a 180-day moratorium on any new permits that would expand the application of biosolids to lands in Brevard County. The moratorium was initially in response to a blue-green cyanobacteria, *Dolichospermum circinale*, bloom in Lake Washington in July 2019, which generated questions about the safety of a primary drinking water supply for Brevard County. Toxin levels measured during the 2019 bloom were low and did not indicate human health concerns. Additional blooms producing toxic microcystins, still below thresholds for human health concerns, were documented in September 2020, March 2021, December 2021, January 2022, March 2022, February 2023, August 2024, April 2025, and October 2025.

The Board of County Commissioners voted in favor of 180-day extensions of the temporary biosolids moratorium in April and October of 2020, in March and August of 2021, and again in February 2022, as Ordinances 2020-05, 2020-18, 2021-07, 2021-20 and 2022-04 respectively. The Board voted in favor of a 365-day extension of the moratorium on August 2, 2022, July 11, 2023, July 9 2024, and again on May 6, 2025, as Ordinances 2022-19, 2023-13, 2024-11, and 2025-06 respectively.

Biosolids legislation in Senator Mayfield's Clean Waterways Act (Senate Bill 712) was approved by the Legislature on March 12, 2020. This legislation directed the Department of Environmental Protection (FDEP) to revise its rules to reduce the impacts of biosolids on water quality and allows for the extension of county biosolids moratoria adopted prior to November 1, 2019. On June 21, 2021, Governor DeSantis signed House Bill 1309 allowing the FDEP to move forward with rule adoption without review by the Environmental Regulation Commission. As of July 1, 2022, biosolids land application sites were required to be enrolled in Florida Department of Agriculture and Consumer Services Best Management Practices program and are prohibited from land application on soils with a seasonal high water table within six inches of the soil surface

or depth of biosolids placement. As of December 22, 2022, biosolids land application sites were required to submit revised nutrient management plans considering phosphorus capacity of the receiving soils, and groundwater and surface water monitoring plans.

The state biosolids rule revisions were expected to reduce phosphorus pollution but not prevent it. Funding was provided to the St. Johns River Water Management District for biosolids research on the continuing impacts under the 2021 rule and to inform future rule revisions and potential mitigation measures. This research has demonstrated that phosphorus applied through Class B biosolids migrates off-site in both the short and long term, calling for further regulatory controls.

In 2025, FDEP issued Consent Agreement Order in OGC File No. 25-1282 requiring that by July 1, 2027, biosolids land application rates at all applications zones in the Upper St. John's River watershed be compliant with the nutrient management plan land application rates and related requirements under the 2021 biosolids rules.

In the 2026 session, the Florida Legislature passed Senate Bill 290, which prohibits the land application of Class B biosolids statewide by July 1, 2028. Additionally, the Legislature passed House Bill 1245, effective November 1, 2026, to prohibit the land application of Class AA biosolids exceeding the agronomic rate needed for beneficial reuse.

Although biosolids have been applied in Brevard County each year since the implementation of the ordinance under the authority of grandfathered permits, only one site in Brevard County is currently accepting biosolids. Two former biosolids land application sites in Brevard do not have active permits. Two additional land application sites have permits to apply biosolids to land immediately adjacent to Brevard County; however, one of those sites inactivated their land application permit in 2024.

Extension of this moratorium will continue to protect Brevard County's waterways from additional excess phosphorus associated with biosolids applications until the statewide prohibitions become effective. The attached ordinance has been reviewed by the County Attorney's Office and duly noticed.

Clerk to the Board Instructions:

If adopted, please return a certified copy of the ordinance to Natural Resources.



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Kimberly.Powell@brevardclerk.us

May 6, 2026

MEMORANDUM

TO: Virginia Barker, Natural Resources Director

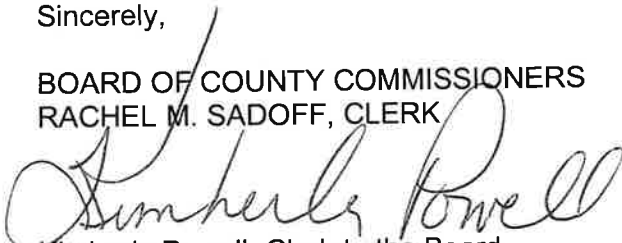
RE: H.1., Extension of Temporary Moratorium on New Applications of Biosolids to Lands within Brevard County

The Board of County Commissioners, in regular session on May 5, 2026, conducted the public hearing and adopted Ordinance No. 26-04, authorizing the extension of the moratorium for any new applications of biosolids to lands within Brevard County effective July 8, 2026. Enclosed is the fully-executed Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK


Kimberly Powell, Clerk to the Board

/sj

Encl. (1)

ORDINANCE NO. 2026- 04

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA AUTHORIZING AN EXTENSION OF TEMPORARY COUNTY-WIDE MORATORIUM FROM THE EFFECTIVE DATE; PROHIBITING THE LAND APPLICATION OF CLASS B BIOSOLIDS EXCEPT EXISTING PERMITTED ACTIVITIES; PROVIDING FOR EXHAUSTION OF ADMINISTRATIVE REMEDIES; AND PROVIDING FOR SEVERABILITY, REPEAL OF CONFLICTING PROVISIONS, RESOLUTION OF CONFLICTING PROVISIONS; AREA ENCOMPASSED AND AN EFFECTIVE DATE.

WHEREAS, as provided in Article VIII, Section 1 of the Florida Constitution and Chapter 125, Florida Statutes, counties have broad home rule powers to enact ordinances, not inconsistent with general or special law, for the purpose of protecting the public health, safety and welfare of the residents of the county; and

WHEREAS, Class B biosolids are solid, semi-solid, or liquid materials resulting from the treatment of domestic waste from sewage treatment facilities that contain nutrients such as phosphorus and nitrogen; and

WHEREAS, Elevated levels of phosphorus and nitrogen have been a point of concern for estuaries and watersheds across the state, as correlations have been observed between the land application of biosolids and elevated levels of phosphorus and nitrogen, algal blooms, and the growth of noxious vegetation; and

WHEREAS, the land application of biosolids has been identified as a potential explanation for toxic algae blooms that occurred in Blue Cypress Lake in 2018 and Lake Washington in 2019¹; and

WHEREAS, Lake Washington provides water supply for the City of Melbourne's potable water utility that supplies drinking water to approximately 170,000 residents in

¹ St. Johns Water Management District Update to the Biosolids Technical Advisory Committee, January 23, 2018. Patterns in Surface Water Phosphorus Concentrations and Biosolids Utilization in the Upper St. Johns River: January 2019 Update.

Melbourne, West Melbourne, Palm Shores, Satellite Beach, Indian Harbour Beach, Indialantic, Melbourne Beach and portions of unincorporated Brevard County; and

WHEREAS, analysis of available ambient water quality data by St. Johns River Water Management District indicates a strong relationship between the cumulative amount of phosphorus applied to land in biosolids and increasing phosphorus concentrations in downstream waters²; and

WHEREAS, analysis by St Johns River Water Management District of available ambient water quality data for watersheds with lower levels of biosolids application do not indicate similar trends of increasing phosphate concentrations³; and

WHEREAS, adding to the present nutrient levels in the St. Johns River Basin may further inflict damage to the local economy as well as the health, safety, and welfare of humans and wildlife in Brevard County and the State of Florida; and

WHEREAS, in 2018 the Department of Environmental Protection created a Biosolids Technical Advisory Committee to evaluate the current management practices and explore opportunities to better protect Florida's water resources and the Committee agreed to a list of recommendations in January 2019; and

WHEREAS, the new biosolids rules ratified by the Legislature in 2021 increase water quality protections but still allow more phosphorus to be land applied per year than the amount of phosphorus anticipated to be removed by the harvest of crops; and

WHEREAS, the Department of Environmental Protection issued Consent Agreement Order in OGC File No. 25-1282 requiring, by July 1, 2027, that biosolids land application rates at all applications zones in the Upper St. John's River watershed

² St. Johns Water Management District Update to the Biosolids Technical Advisory Committee, January 23, 2018. Patterns in Surface Water Phosphorus Concentrations and Biosolids Utilization in the Upper St. Johns River: January 2019 Update.

³ St. Johns Water Management District Update to the Biosolids Technical Advisory Committee, November 28, 2018. Patterns in Surface Water Phosphorus Concentrations and Biosolids Utilization in the Upper St. Johns River.

be compliant with the nutrient management plan land application rates and related requirements under the 2021 biosolids rules; and

WHEREAS, House Bill 1245, effective November 1, 2026, prohibits the land application of Class AA biosolids exceeding the agronomic rate needed for beneficial reuse; and

WHEREAS, Senate Bill 290, prohibits the land application of Class B biosolids by July 1, 2028; and

WHEREAS, the Board of County Commissioners ("Board") finds that the proper regulation of the land application of Class B biosolids is necessary and appropriate to protect potable water supplies as well as guide the future use, development, and protection of the land and natural resources in Brevard County; and

WHEREAS, the Board has determined that the temporary moratorium on new or expanding biosolids application is needed to protect water quality in Lake Washington, the St. Johns River watershed and surrounding water bodies, from adverse impacts potentially caused by the land application of Class B biosolids; and

WHEREAS, the Board enacted Ordinance 2019-20 imposing a 180-day temporary moratorium on any new Class B biosolids applications on October 8, 2019; and

WHEREAS, Section 403.0855(6), Florida Statutes (2020) allows for the extension of a county ordinance, regulation, resolution, rule, moratorium, or policy, relating to land application of Class B biosolids, and which was adopted prior to November 1, 2019, until the ordinance, regulation, rule, moratorium, or policy is repealed by the county; and

WHEREAS, the Board enacted Ordinance 2020-05 imposing a 180-day extension of the temporary biosolids moratorium on April 7, 2020; and

WHEREAS, the Board enacted Ordinance 2020-18 imposing a 180-day extension of the temporary biosolids moratorium on October 6, 2020; and

WHEREAS, the Board enacted Ordinance 2021-07 imposing a 180-day extension of the temporary biosolids moratorium on March 9, 2021; and

WHEREAS, the Board enacted Ordinance 2021-20 imposing a 180-day extension of the temporary biosolids moratorium on August 24, 2021; and

WHEREAS, the Board enacted Ordinance 2022-04 imposing a 180-day extension of the temporary biosolids moratorium on February 8, 2022; and

WHEREAS, the Board enacted Ordinance 2022-19 imposing a 365-day extension of the temporary biosolids moratorium on August 2, 2022; and

WHEREAS, the Board enacted Ordinance 2023-13 imposing a 365-day extension of the temporary biosolids moratorium on July 11, 2023; and

WHEREAS, the Board enacted Ordinance 2024-11 imposing a 365-day extension of the temporary biosolids moratorium on July 9, 2024; and

WHEREAS, the Board enacted Ordinance 2025-06 imposing a 365-day extension of the temporary biosolids moratorium on May 6, 2025; and

WHEREAS, the Board specifically finds that this extension to the temporary moratorium on the land application of Class B biosolids is necessary and appropriate to protect the public health, safety and welfare of the citizens of Brevard County and shall become effective on and after July 8, 2026.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA THAT:

Section 1. Recitals Adopted

Each of the recitals set forth above is hereby adopted and incorporated herein.

Section 2. Enactment Authority.

Article VIII, Section 1 of the Florida Constitution and Chapter 125, Florida Statutes, vest broad home rule powers in counties to enact ordinances, not inconsistent with general or special law, for the purpose of protecting the public health, safety and welfare of the residents of the County. The Board specifically determines that the enactment of this Ordinance is necessary to protect the health, safety and welfare of the residents of Brevard County.

Section 3. Temporary Moratorium.

Beginning on the effective date of this Ordinance, a moratorium is hereby imposed upon all properties within Brevard County on the land application of Class B biosolids, excepting existing permit holders and where determined to be preempted by state law or regulation.

Section 4. Expiration of Temporary Moratorium.

Pursuant to Section 403.855(6), Florida Statutes, as may be amended, the temporary moratorium imposed by Section 3 of this Ordinance may be repealed by adoption of an ordinance or resolution of the Brevard County Board of County Commissioners.

Section 5. Exhaustion of Administrative Remedies.

A property owner claiming that this Ordinance, as applied, constitutes or would constitute a temporary or permanent taking of private property or an abrogation of vested rights shall not pursue such claim in court unless all administrative remedies have been exhausted.

Section 6. Severability.

If any part of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected by such holding and shall remain in full force and effect.

Section 7. Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 8. Resolution of Conflicting Provisions.

In the case of a direct conflict between any provision of this Ordinance and a portion or provision of any other appropriate federal, state or county law, rule, code or regulations, the more restrictive shall apply.

Section 9. Area Encompassed.

This Ordinance shall take effect COUNTYWIDE, within the municipal and unincorporated areas of Brevard County, Florida.

Section 10. Effective Date.

This Ordinance shall be effective on and after July 8, 2026, after adoption by the Board of County Commissioners and filing with the Department of State. A certified copy of the Ordinance shall be filed with the State, within ten days of enactment.

Section 11. Non-Inclusion in Code of Ordinances.

This Ordinance shall not be codified or made a part of the Brevard County Code of Ordinances.

DONE, ORDERED AND ADOPTED in Regular Session, this 5th day of May, 2026.

Attest:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA



Rachel M. Sadoff, Clerk



Thad Altman, Chair

(As approved by the Board on May 5, 2026)



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

May 6, 2026

Rachel Sadoff
County Clerk
Brevard County
Post Office Box 999
Titusville, FL 32781-0999

Dear Rachel Sadoff,

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 2026-04, which was filed in this office on May 6, 2026.

Sincerely,

Alexandra Leijon
Administrative Code and Register Director

AL/dp