



December 17, 2025

City of Marco Island
Waterways Advisory Committee
c/o City Staff Liaison, Justin Martin
50 Bald Eagle Drive
Marco Island, FL 34145
jmartin@cityofmarcoisland.com

RE: Agenda Item 6B, 12/18/25, Fertilizer Regulation Discussion

Dear Waterways Advisory Committee:

I am writing on behalf of the Conservancy of Southwest Florida in regards to your agenda item discussing fertilizer ordinances scheduled for December 18, 2025. I regret that I cannot attend the meeting and would, instead, am hopeful that this correspondence will be received by you in time for consideration of your meeting.

I understand that the Waterways Advisory Committee is looking on ways to address water quality issues and have been reviewing the City's code of ordinances, including your fertilizer regulations.

While the Conservancy of Southwest Florida has not be able to attend your meetings in some time, please do know that we have a longtime vested interest in the water quality issues of the area and worked diligently with your staff and other community members to bring forward a strong and protective fertilizer ordinance that was adopted by the City Council in 2017 (for example, the attached example comment letter from 2016).

The path to adopt the current fertilizer ordinance was a multi-year effort, with some discussions first beginning around 2009. The Conservancy of Southwest Florida has been committed over the past nearly two decades to assisting local municipalities to adopt strong and protective fertilizer ordinances as needed, beyond the minimal baseline measures found in the state's model fertilizer ordinance.

We were happy to see that the City Council adopted a stronger-than-the-model version of the ordinance in 2017 that included "over and above" components like a blackout rainy season period during the summer, limits on how much fertilizer can be applied, a non-fertilizer zone setback to waterways, use of a spreader deflector, and training for applicators, amongst other components.

One of the biggest hurdles to getting the fertilizer ordinance adopted in Marco Island and elsewhere was due to existing Florida Statute language that requires local governments to jump through hoops to adopt strong fertilizer ordinances. That Florida Statute stands today.

We wanted to write and make sure that you are aware of these Statute requirements found in 403.9336 and 403.9337 Fla. Stat.. Although your City legal counsel and staff can advise you best, it is our understanding that amendments or changes to your fertilizer ordinance would likely require that you meet these Florida Statute requirements below:

(2) Each county and municipal government located within the watershed of a water body or water segment that is listed as impaired by nutrients pursuant to s. [403.067](#), shall, at a minimum, adopt the department's Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes. A local government may adopt additional or more stringent standards than the model ordinance if the following criteria are met:

(a) The local government has demonstrated, as part of a comprehensive program to address nonpoint sources of nutrient pollution which is science-based, and economically and technically feasible, that additional or more stringent standards than the model ordinance are necessary in order to adequately address urban fertilizer contributions to nonpoint source nutrient loading to a water body.

(b) The local government documents that it has considered all relevant scientific information, including input from the department, the institute, the Department of Agriculture and Consumer Services, and the University of Florida Institute of Food and Agricultural Sciences, if provided, on the need for additional or more stringent provisions to address fertilizer use as a contributor to water quality degradation. All documentation must become part of the public record before adoption of the additional or more stringent criteria.

(3) Any county or municipal government that adopted its own fertilizer use ordinance before January 1, 2009, is exempt from this section. Ordinances adopted **or amended** on or after January 1, 2009, must substantively conform to the most recent version of the model fertilizer ordinance and are subject to subsections (1) and (2), as applicable.

In short, it is our understanding that even trying to amend your ordinance to adopt even more protective measures would still likely require 1) documentation that your fertilizer ordinance is part of a comprehensive program to address nutrient pollution, 2) your recommendations are science-based, 3) the City has considered any provided input from state agencies, and 4) all that documentation is part of the public record.

Unfortunately, the biggest detractors from local governments seeking to increase their fertilizer pollution protections have historically come from the Florida Department of Agriculture and Consumer Services (FDAS), and the University of Florida Institute of Food and Agricultural Sciences (IFAS), whose input has primarily been through the perspective of optimization for turfs and lawns, and not putting the health of waterways first.

Some changes to local fertilizer ordinances have also prompted legal action; the City of Naples changed their once-strong fertilizer ordinance to one that no longer had a summer rainy season blackout period. When they realized their mistake, and sought to amend their ordinance to include the very important summer rainy season ban, a lawsuit was levied against them arguing that they did not meet these Florida Statute requirements. Fortunately, the City of Naples successfully defended their strong ordinance in court, again joining the over 110 cities and counties in Florida that these summer rainy season bans on nitrogen and phosphorous-containing fertilizers.

Sadly, our Florida legislature has made it difficult for local governments to easily modify their fertilizer ordinances, and have a history of threatening preemption. Thus, we strongly recommend that before the City would put forward a revised fertilizer ordinance that you review these state requirements and determine if opening the can of worms would yield benefits that outweigh the risks.

That being said, we applaud the Waterways Committee and the City in considering different means to protect your waterways. For example, we heard your discussion of landscape ordinance changes that could prioritize Florida native plants and low maintenance (e.g, low to no fertilizer) plantings. It is our outstanding that only the ordinance language that speaks to *application* of fertilizer would be subject to these Florida Statutes, allowing changes to your landscape ordinance language available for potential changes that should not trigger the above Florida Statute process requirements.

Please feel free to call me at (239) 776-5601 with any questions or further discussion, and I again apologize I cannot attend tomorrow's meeting. Thank you for your consideration of our comments.

Sincerely,

Amber Crooks
Senior Environmental Policy Advisor
Conservancy of Southwest Florida