

Preliminary Analysis of Chapter 2023-169 Laws of Florida

Growth Management Department October 2023.

House Bill 1379, as adopted in 2023 (also known as Chapter 2023-169 Laws of Florida) will have a substantial effect on both utility planning and Comprehensive Plans in the State. It links utility planning with nutrient load reductions in Basin Management Action Plans or BMAPs.

Chapter 403.067 (7) describes the development of Basin Management Plans and implementation of total maximum daily loads affecting water bodies. The following text was added to chapter 403.067 (7) (a) 10 F.S. It prohibits the use of onsite sewage treatment and disposal systems (commonly called septic systems) when a sewer system is available. When a sewer system is not available and lots of one acre (or less) are located in a BMAP, it requires the use of enhanced nutrient-reducing onsite sewage treatment and disposal systems that achieve at least 65 percent nitrogen reduction.

“10. The installation of new onsite sewage treatment and disposal systems constructed within a basin management action plan area adopted under this section, a reasonable assurance plan, or a pollution reduction plan is prohibited where connection to a publicly owned or investor-owned sewerage system is available as defined in s. 381.0065(2)(a). On lots of 1 acre or less within a basin management action plan adopted under this section, a reasonable assurance plan, or a pollution reduction plan where a publicly owned or investor-owned sewerage system is not available, the installation of enhanced nutrient-reducing onsite sewage treatment and disposal systems or other wastewater treatment systems that achieve at least 65 percent nitrogen reduction is required.”

Chapter 163.3177 F.S. identifies required content of a local government Comprehensive Plan and it outlines the subjects that must be considered in a utilities element. The following stricken and underlined text show changes to Chapter 163.3177 (6)(c) Florida Statutes that Counties must address by July 1, 2024.

“2. The element must ~~shall~~ describe the problems and needs and the general facilities that will be required for solution of the problems and needs, including correcting existing facility deficiencies. The element must ~~shall~~ address coordinating the extension of, ~~or~~ increase in the capacity of, or upgrade in treatment of facilities to meet future needs; prioritizing advanced waste treatment while maximizing the use of existing facilities and discouraging urban sprawl; conserving potable water resources; and protecting the functions of natural groundwater recharge areas and natural drainage features.

“3. Within the local government’s jurisdiction, for any development of more than 50 residential lots, whether built or unbuilt, with more than one onsite sewage treatment and disposal system per 1 acre, the element must consider the feasibility of providing sanitary sewer services within a 10-year planning horizon and must identify the name and location of the wastewater facility that could receive sanitary sewer flows after connection; the capacity of the facility and any associated transmission facilities; the projected wastewater flow at that facility for the next 20 years, including expected future new construction and connections of

onsite sewage treatment and disposal systems to sanitary sewer; and a timeline for the construction of the sanitary sewer system. An onsite sewage treatment and disposal system is presumed to exist on a parcel if sanitary sewer services are not available at or adjacent to the parcel boundary. Each comprehensive plan must be updated to include this element by July 1, 2024, and as needed thereafter to account for future applicable developments. This subparagraph does not apply to a local government designated as a rural area of opportunity under s. 288.0656.”

The text quoted above requires a utilities element to “consider the feasibility of providing sanitary sewer services” but does not require utility services to be extended. There may be circumstances within a BMAP (within Martin County) where wastewater utility lines are not available, the cost of extending such lines is prohibitive and, the typical septic system (that has been used in the past) may not be permitted. In those circumstances, an enhanced nutrient-reducing onsite sewage treatment and disposal system may be the only option.

Staff anticipates the cost of enhanced nutrient-reducing onsite sewage treatment and disposal systems will be substantially more than the typical septic system.

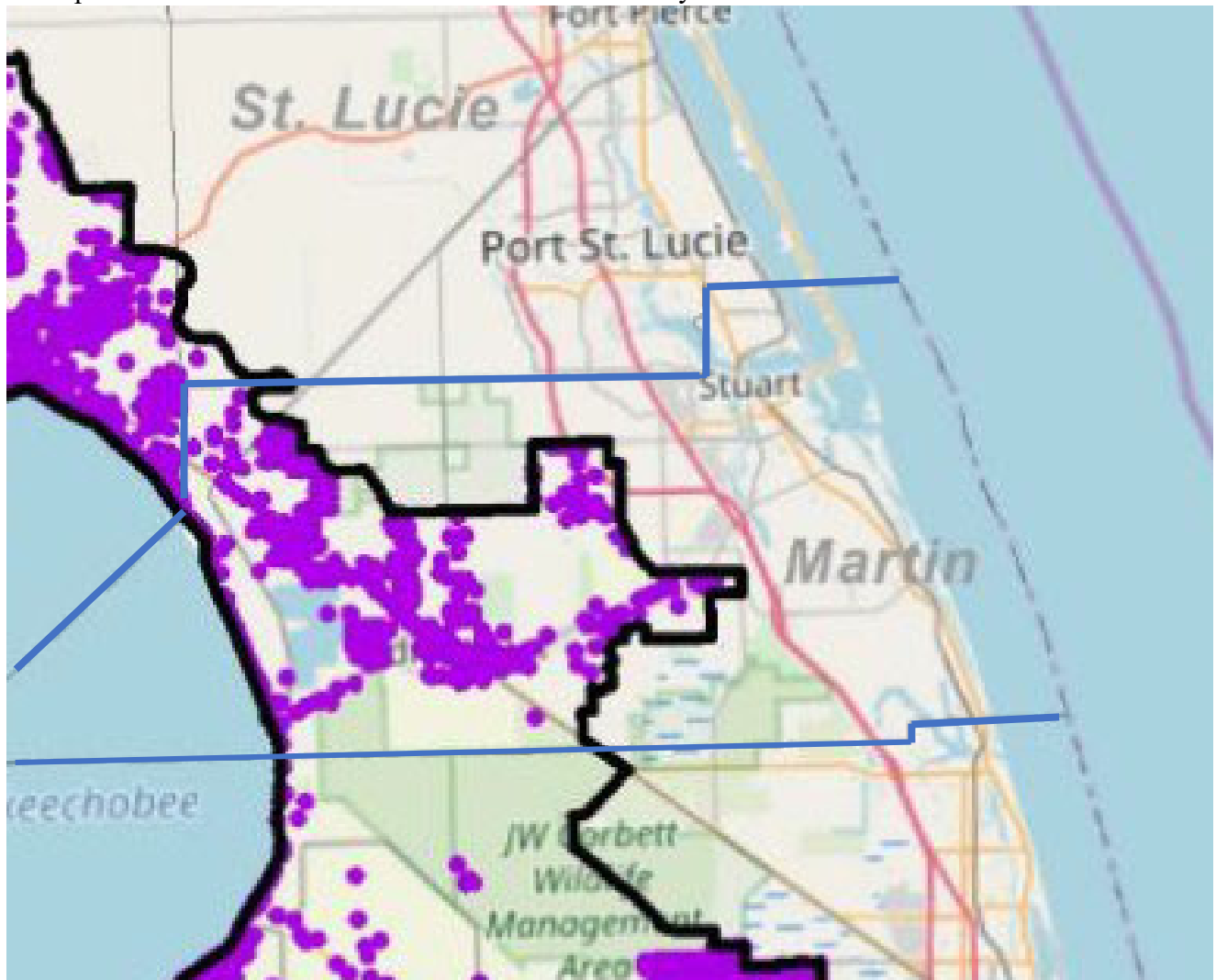
“Enhanced nutrient-reducing onsite sewage treatment and disposal system” means an onsite sewage treatment and disposal system approved by the department as capable of meeting or exceeding a 50 percent total nitrogen reduction before disposal of wastewater in the drainfield, or at least 65 percent total nitrogen reduction combined from the onsite sewage tank or tanks and drainfield.”

Areas of Martin County lacking centralized sewer service and outside the two BMAP boundaries may use standard septic systems. On lots of one acre or less, enhanced nutrient-reducing onsite sewage treatment and disposal systems will be required within the BMAP boundaries. The legislative changes appear to strongly discourage the continued use of septic systems. It appears the State is pushing all communities to move aggressively toward septic to sewer conversion, regardless of local regulations such as a Primary Urban Service District.

Chapter 2023-169 Laws of Florida takes much more aggressive action to reduce nutrients in other BMAPs. It prohibits the new installation of onsite sewage treatment and disposal systems beginning January 1, 2024 in the following BMAPs, Banana River Lagoon Central Indian River Lagoon, North Indian River Lagoon and Mosquito Lagoon Reasonable Assurance Plan. By July 1, 2030 any commercial or residential property with an existing septic system in one of the areas listed above must hook up to central sewer if available or upgrade to an enhanced nutrient-reducing onsite sewage treatment and disposal system. This is not a requirement in Martin County at this time.

Attached to this document is Figure 3 from the Lake Okeechobee BMAP and Figure 4 from the St. Lucie River and Estuary BMAP. Excerpts from these figures are shown below with county boundaries added.

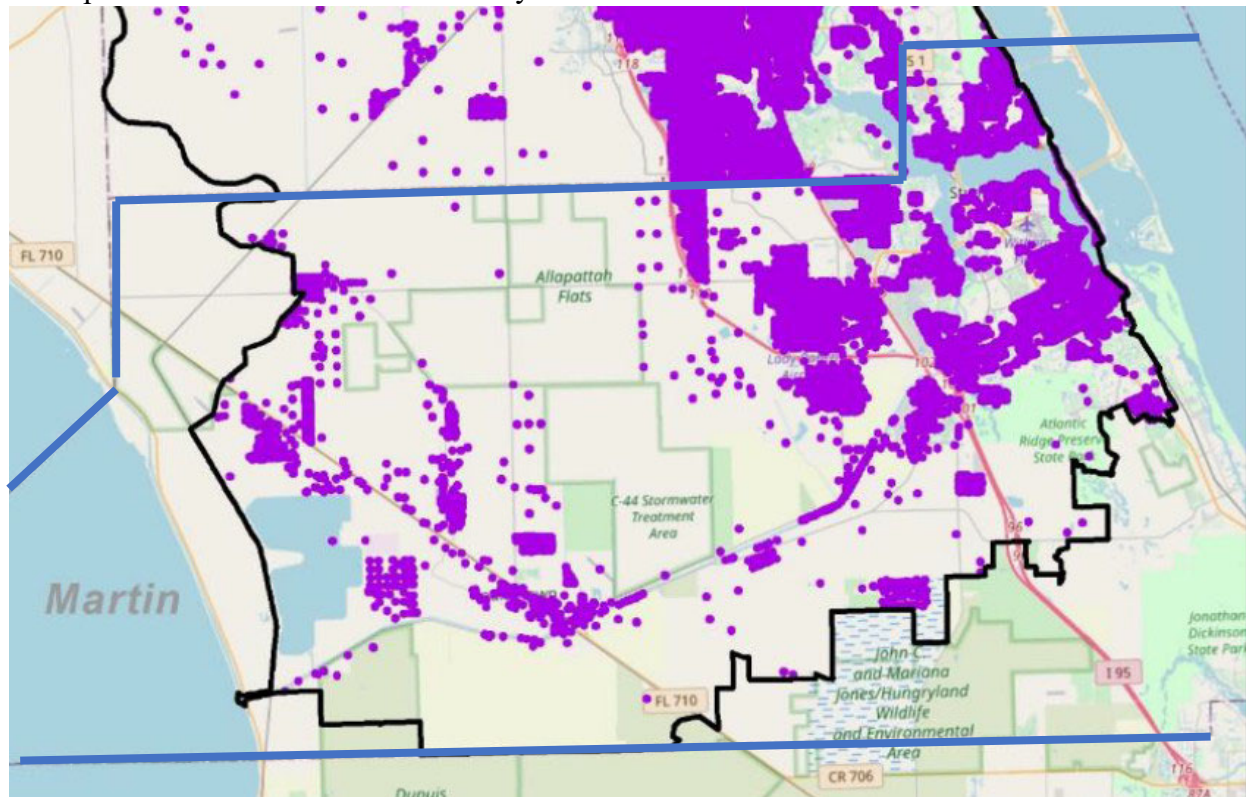
Excerpt of the Lake Okeechobee BMAP in Martin County.



The Martin County boundary is roughly outlined in blue. Areas within the black outline are within the Lake Okeechobee BMAP. The areas in purple show where the BMAP identifies potential septic systems.

Source, Lake Okeechobee Basin Management Action Plan, January 2020. Department of Environmental Protection.

Excerpt of the St. Lucie River & Estuary BMAP



The Martin County boundary is roughly outlined in blue. Areas within the black outline are within the St. Lucie River & Estuary BMAP. The areas in purple show where the BMAP identifies potential septic systems. There is considerable overlap between the Lake Okeechobee BMAP and the St. Lucie River & Estuary BMAP.

Source, St. Lucie River & Estuary Basin Management Action Plan, January 2020. Department of Environmental Protection.