

**From:** [Emery, Tyson](#)  
**To:** [Darryl Deleeuw](#)  
**Cc:** [Hildebrandt, Steve](#); [Hodges, Greg](#); [Shawn Mccarthy](#)  
**Subject:** RE: Local Ordinance for prohibited plant species  
**Date:** Friday, April 12, 2013 1:06:02 PM

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Yes this would be a violation of the current statute.

Tyson Emery  
Chief- Bureau of Plant and Apiary Inspection  
Division of Plant Industry  
Florida Department of Agriculture and Consumer Services

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**From:** Darryl Deleeuw [<mailto:ddeleeuw@martin.fl.us>]  
**Sent:** Friday, April 12, 2013 11:21 AM  
**To:** Emery, Tyson  
**Cc:** Hildebrandt, Steve; Hodges, Greg; Shawn Mccarthy  
**Subject:** RE: Local Ordinance for prohibited plant species

I think you are missing the purpose of my question.

If Martin County adopts an Ordinance in 2013 prohibiting the planting of FEPPC Category I species, is this in violation of F.S. 581.091?

Yes or no?

Thank you, as we are looking for guidance in adopting (amending) a new landscape ordinance.

Darryl

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**From:** Emery, Tyson [<mailto:Tyson.Emery@freshfromflorida.com>]  
**Sent:** Friday, April 12, 2013 11:15 AM  
**To:** Darryl Deleeuw  
**Cc:** Hildebrandt, Steve; Hodges, Greg; Shawn Mccarthy  
**Subject:** RE: Local Ordinance for prohibited plant species

This Statute only covers those listed in under Rule Chapter 5B-57-007 Noxious weed list. The FEPPC

list is separate from the State of Florida List.

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**From:** Darryl Deleeuw [<mailto:ddeleeuw@martin.fl.us>]  
**Sent:** Friday, April 12, 2013 10:50 AM  
**To:** Emery, Tyson  
**Cc:** Hildebrandt, Steve; Hodges, Greg; Shawn Mccarthy  
**Subject:** RE: Local Ordinance for prohibited plant species

Thank you for the information, Mr. Emery.

Is it correct to state that a list of plants prohibited (trees, shrubs) to be planted in a local landscape ordinance (e.g., FEPPC category I) would be different from a list of noxious weeds adopted by a local government for some other purpose?

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**From:** Emery, Tyson [<mailto:Tyson.Emery@freshfromflorida.com>]  
**Sent:** Thursday, April 11, 2013 4:51 PM  
**To:** Darryl Deleeuw  
**Cc:** Hildebrandt, Steve; Hodges, Greg  
**Subject:** RE: Local Ordinance for prohibited plant species

Mr. DeLeuw,

Thank you for your recent inquiry concerning Florida Statue 581.091, your question has been forwarded to me for reply.

What you have highlighted is in reference to local government ordinances having a set noxious weed list they follow outside Rule Chapter 5B-007, noxious weed list. Local governments must following those plants listed in Rule Chapter 5B-007 and cannot have a noxious weed list unless such list was in adopted prior to March 1, 2002.

Please let me know if you have any further questions.

Tyson Emery  
Chief- Bureau of Plant and Apiary Inspection

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**From:** Darryl Deleeuw [<mailto:ddeleeuw@martin.fl.us>]  
**Sent:** Monday, April 08, 2013 3:39 PM  
**To:** Hodges, Greg  
**Cc:** Anderson, Patti; Shawn Mccarthy  
**Subject:** Local Ordinance for prohibited plant species

Mr. Hodges,

Staff at Martin County are considering amending the County's Landscape Code, as found in our Land Development Regulations, to reference a revised list of prohibited plant species. Presently, such species shall not be planted except for sterile hybrids and cultivars and removal of such species shall be a condition of approval for all new development.

Can you please clarify the highlighted section below\* from F.S. 581.091? Would a new local Landscape Ordinance be required to reference the list of plants as found in Ch 5B-57, FAC?

\* (4) The department, in conjunction with the Institute of Food and Agricultural Sciences at the University of Florida, shall biennially review the official state lists of noxious weeds and invasive plants as provided for under this chapter and department rules. The plants listed in s. 369.251 shall be incorporated into the department lists as provided for under this chapter. A water management district when identifying by rule pursuant to s. 373.185, or a local government when identifying by ordinance or regulation adopted on or after March 1, 2002, a list of noxious weeds, invasive plants, or plants deemed to be a public nuisance or threat, shall only adopt the lists developed under this chapter or rules adopted thereunder. All local government ordinances or regulations, adopted prior to March 1, 2002, that list noxious weeds or invasive plants shall remain in effect. All local ordinances or regulations requiring the removal of invasive plants or noxious weeds from publicly or privately owned conservation areas or preserves shall be exempt from the limitations in this subsection.

Thank you for any assistance you can provide in this matter.

**Darryl DeLeeuw**

Environmental Administrator  
Growth Management Department  
Martin County Board of County Commissioners  
(772) 221-1317



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