

CITY OF CORAL GABLES, FLORIDA

ORDINANCE NO. 2021-__

AN ORDINANCE OF THE CITY OF CORAL GABLES, FLORIDA, AMENDING THE CITY OF CORAL GABLES CODE BY CREATING SECTION 82-8 “APPLICATION OF FERTILIZER” IN CHAPTER 82-VEGETATION, ARTICLE 1- IN GENERAL; PROVIDING FOR A REPEALER PROVISION, SEVERABILITY CLAUSE, CODIFICATION, ENFORCEABILITY, AND AN EFFECTIVE DATE

WHEREAS, excessive and improper application of fertilizers contribute to adverse effects on surface and ground water; and

WHEREAS, excessive nutrients and high levels of nitrogen in the City’s surface and ground water can lead to algae blooms and cause harm to aquatic vegetation and wildlife; and

WHEREAS, according to recent research residential lawn fertilization is estimated to be the second largest source of household nitrogen in the United States (Souto et al. 2019); and

WHEREAS, Florida Law requires every Commercial (for-hire) Fertilizer Applicator to have the Florida Department of Agriculture and Consumer Services Limited Commercial Fertilizer (LF) Applicator License/Certificate with limited exceptions; and

WHEREAS, the Florida Department of Environmental Protection has developed the Florida Friendly Best Management Practices for Protection of Water Resources by the Green Industries which is a publicly available manual that provides information and guidance on turfgrass and landscape fertilization best management practices to minimize Nonpoint Source Pollution in order to conserve and protect Florida’s water resources; and

WHEREAS, regardless of the time of year, best practice is to utilize slow release fertilizers, as they are horticulturally and environmentally preferable for landscape plantings; and

WHEREAS, according to Millette et al. 2019, 20 years of Biscayne Bay water quality data reveals that the bay may be facing a regime change from a seagrass dominated ecosystem to an algae dominated ecosystem due to elevated levels of nutrients like phosphorous; and

WHEREAS, reducing the use of residential fertilizers during key times can improve the City’s waterways and may help improve water quality throughout Biscayne Bay; and

WHEREAS, in Florida over eighty municipalities and thirty-two counties have passed ordinance regulating the use of fertilizers, and over forty ordinances include prohibited application periods for certain types of fertilizers; and

WHEREAS, Section 403.9337, F.S. requires municipalities to adopt, at a minimum, the State of Florida Model Ordinance for Florida-friendly Fertilizer Use for Urban Landscape and also expressly allows local governments to adopt more stringent standards after demonstrating that more stringent requirements are necessary in the particular area; and

WHEREAS, the condition of Biscayne Bay has been declared as “impaired” by the Florida Department of Environmental Protection; and

WHEREAS, preliminary samples taken from the City’s waterways showed high levels of total nitrogen and total phosphorous; and

WHEREAS, the City engaged Florida International University (pursuant to Resolution No. 2020-150) to perform a waterway assessment which is currently ongoing; and

WHEREAS, Miami-Dade County Report on Development and Implementation of an Annual Card Program on the Health of Biscayne Bay supports the affected condition of Biscayne Bay; and

WHEREAS, the City of Coral Gables is home to the Fairchild Tropical Botanic Garden, a world-renowned botanical garden practicing the highest levels of science conservation and horticulture on its extensive and invaluable plant collection; and

WHEREAS, the City Commission of the City of Coral Gables declares that it is in the best interest of the public health, safety, and welfare of its residents and visitors to reduce runoff from improperly applied fertilizers in the waters of the City; and

NOW THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF CORAL GABLES, FLORIDA:

SECTION 1. That the foregoing “**WHEREAS**” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

SECTION 2. That Chapter 82 “Vegetation”, Article I- In General of the City Code of Coral Gables, Florida, be hereby amended to add Section 82-8 as follows:

82-8- Application of Fertilizer

- (a) *Prohibition.* No person shall apply fertilizers containing nitrogen or phosphorus to turf or landscape plants during the prohibited application period, which will run from June 1 to September 30 each year. In addition, no fertilizers containing nitrogen or phosphorous shall be applied to turf or landscape plants when a Tropical Storm or Hurricane Watch or Warning is in effect for the City.
- (b) *Exemptions.* This prohibition shall not apply to golf courses when fertilizers are applied by or under the direction of a professional with a valid certification from the Golf Course Best Management Practice Certification Program and fertilizer must be applied following the Florida Department of Environmental Protection Best Management Practices for the Enhancement of Environmental Quality on Florida Golf Courses. Golf course and athletic field managers shall provide proof of valid certification to the City prior to the prohibited application period, each year. This prohibition shall also not apply to: (i) any lands used for bona fide scientific research, including, but not limited to, botanical gardens, and research on the effects of fertilizer use on urban stormwater, water quality, agronomics and horticulture; (ii) Bona fide farm operations as defined in the Florida Right to Farm

Act, Section 823.14, Florida Statutes, provided that fertilizers are applied in accordance with the appropriate best management practices manual adopted by the Florida Department of Agriculture and Consumer Services, Office of Agricultural Water Policy for the crop in question; (iii) High impact areas in public parks and athletic fields. Specialized turf managers are required to follow the provisions of the "Florida Green Industries Best Management Practices for Protection of Water Resources in Florida, December 2008", as amended, for Turf and Landscape Plants; (iv) Vegetable gardens, provided they are not within fifteen (15) feet of any water body and/or wetland; or (v) Fruit trees and shrubs, provided that fertilizer application rates do not exceed UF/IFAS recommendations.

- (c) Application area. Outside of the prohibited application period, fertilizer containing nitrogen or phosphorus shall not be applied within twenty (20) feet of any pond, stream, watercourse, lake, canal, or wetland as defined by the Florida Department of Environmental Protection or within twenty (20) feet from the top of a seawall. In no case shall any type of fertilizer be dumped, broadcast, washed, swept, or blown into stormwater drains, ditches, conveyances or water bodies.
- (d) Low maintenance zones. A voluntary ten-foot low maintenance zone is strongly recommended, but not mandated, from the top of a seawall or bank of any surface water of Biscayne Bay or any pond, stream, waterway, lake, canal, wetland or storm drain. A swale/berm system is recommended for installation at the landward edge of this low maintenance zone to capture and filter runoff. If more stringent Miami-Dade County Code regulations apply, this provision does not relieve the requirement to adhere to the more stringent regulations. No mowed or cut vegetative material should be deposited or left remaining in the low maintenance zone or deposited in the water. Care should be taken to prevent the over-spray of aquatic weed products in the low maintenance zone. Care must be taken to ensure erosion of the surface soil does not occur. Excessive erosion may result in additional pollution hazard.
- (e) Enforcement and Penalties. Given the serious threat to the public health, safety and welfare of violations of this Section, along with the irreparable and irreversible nature of such violations, in accordance with Florida Statutes, no warning shall be given by a code enforcement officer prior to the issuance of a citation. Fines collected shall be deposited in the Coral Gables Water Quality Trust Fund dedicated to fulfilling the purposes of this section and protecting the health and water quality of water in the City of Coral Gables. Funds generated by penalties imposed under this section shall be used to further water conservation, and nonpoint pollution prevention activities, water quality improvements, and marine and coastal ecosystems enhancements that protect the city's water resources and Biscayne Bay.

If a code compliance officer finds a violation of this article, the code compliance officer shall issue a civil infraction notice. The notice shall inform the violator of the nature of the violation, and amount of fine for which the violator is liable A violator who has been served with a civil infraction notice must pay the following civil fine:

- i. First violation within a 12-month period.....\$150.00;

- ii. Second violation within a 12-month period.....\$300.00;
- iii. Third or subsequent violation within a 12-month period....\$500.00

f) Water Quality Trust Fund

- (1) Creation of the Water Quality Trust Fund . There is hereby created a city water quality trust fund, the purpose of which is to protect the health and water quality of water in the City of Coral Gables
- (2) Disbursement and maintenance of the water quality fund. Funds generated by penalties imposed under this section shall be used to further water conservation, and nonpoint pollution prevention activities, water quality improvements, and marine and coastal ecosystems enhancements that protect the city’s water resources and Biscayne Bay

SECTION 3. EDUCATIONAL CAMPAIGN. The City shall organize an extensive education campaign for those landscapers registered with the City pursuant to Section 82-7 of the City Code. The City shall also organize an education campaign for the residents of the City in order to educate them on the prohibitions in this Ordinance as well as best practices related to fertilizer application. This education campaign shall begin immediately upon adoption of this Ordinance and shall include a large campaign to coincide with start of the prohibited application period as adopted in this Ordinance.

SECTION 4. REPEALER. All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 5. SEVERABILITY. If any section, part of section, paragraph, clause, phrase or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

SECTION 6. CODIFICATION. It is the intention of the Commission of the City of Coral Gables, Florida, that the provisions of this Ordinance shall become and be made part of the City of Coral Gables Code of Ordinances; and that the sections of this “ordinance” may be changed to “section”, “article”, or such other appropriate word or phrase in order to accomplish such intentions. . If the Official Code of the City of Coral Gables Tables of Contents or other reference portions is affected by these provisions, then changes are approved as a part of this Ordinance.

SECTION 7. EFFECTIVE DATE. This Ordinance shall become effective immediately upon passage and adoption herein.

PASSED AND ADOPTED THIS _____ DAY OF _____, A.D. 2021.

APPROVED:

RAUL VALDES-FAULI

MAYOR

ATTEST:

BILLY Y. URQUIA

CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

MIRIAM SOLER RAMOS

CITY ATTORNEY