

RESOLUTION NO. 2021-63

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A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA RELATING TO REGULATION OF FERTILIZER; ADOPTING THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION’S MODEL ORDINANCE FOR FLORIDA-FRIENDLY FERTILIZER USE FOR URBAN LANDSCAPES; PROVIDING FOR ADDITIONAL AND MORE STRINGENT STANDARDS THAN THE MODEL ORDINANCE, INCLUDING AN ANNUAL PERIOD DURING WHICH FERTILIZER APPLICATION GENERALLY WOULD BE PROHIBITED AND LIMITATIONS ON NITROGEN AND PHOSPHOROUS; PROVIDING ENFORCEMENT AUTHORITY TO BUILDING DEPARTMENT DIRECTOR; REQUESTING THAT THE VILLAGE MANAGER DIRECT COMMUNICATIONS DEPARTMENT TO CONDUCT AN EDUCATIONAL CAMPAIGN; AND PROVIDING SEVERABILITY, INCLUSION OF THE CODE, AND AN EFFECTIVE DATE. *(Sponsored by Administration)*

WHEREAS, the excessive and improper use of fertilizers can contribute to water quality issues and can lead to water quality degradation; and

WHEREAS, the excessive and improper use of fertilizer can also be economically inefficient, for example by property owners and residents to waste money by applying too much fertilizer or by applying fertilizer during periods of heavy rain, when it will be washed away; and

WHEREAS, section 403.9337, Florida Statutes, requires county and municipal governments that are “located within the watershed of a water body or water segment that is listed as impaired by nutrients pursuant to section 403.067,” Florida Statutes, to, at a minimum, adopt the State of Florida’s model ordinance for Florida-Friendly Fertilizer Use for Urban Landscapes to regulate the application of fertilizer “as a mechanism for protecting local surface and groundwater quality;” and

1 County Code;
2 * requiring review and approval by the Miami-Dade County
3 Department of Regulatory and Economic Resources' Division of
4 Environmental Resources Management (DERM) prior to construction,
5 installation, or alteration of outfalls or overflow systems discharging to
6 waterbodies of Miami-Dade County; and
7 * regulating activities involving dewatering of groundwater and surface
8 water; and
9

10 **WHEREAS**, a rigorous study conducted by DERM of the
11 County's water quality and seagrass survey data and a review of
12 relevant scientific literature and academic studies indicates that
13 chronic, low-level nutrient loading; acute, pulsed nutrient loading; or a
14 combination of both are likely linked to seagrass loss in Biscayne Bay,
15 as cited in the County's January 28, 2019 Study on the Decline of
16 Seagrass and Hardbottom Habitat (available online at:
17 [http://www.miamidade.gov/mayor/library/memos-and-](http://www.miamidade.gov/mayor/library/memos-and-reports/2019/01/01.28.19-Report-on-the-Findings-of-the-Countys-Study-on-the-Degradation-of-Seagrass-and-Hardbottom-Habitat-in-Biscayne-Bay-Directive-No-171537.pdf)
18 [reports/2019/01/01.28.19-Report-on-the-Findings-of-the-Countys-](http://www.miamidade.gov/mayor/library/memos-and-reports/2019/01/01.28.19-Report-on-the-Findings-of-the-Countys-Study-on-the-Degradation-of-Seagrass-and-Hardbottom-Habitat-in-Biscayne-Bay-Directive-No-171537.pdf)
19 [Study-on-the-Degradation-of-Seagrass-and-Hardbottom-Habitat-in-](http://www.miamidade.gov/mayor/library/memos-and-reports/2019/01/01.28.19-Report-on-the-Findings-of-the-Countys-Study-on-the-Degradation-of-Seagrass-and-Hardbottom-Habitat-in-Biscayne-Bay-Directive-No-171537.pdf)
20 [Biscayne-Bay-Directive-No-171537.pdf](http://www.miamidade.gov/mayor/library/memos-and-reports/2019/01/01.28.19-Report-on-the-Findings-of-the-Countys-Study-on-the-Degradation-of-Seagrass-and-Hardbottom-Habitat-in-Biscayne-Bay-Directive-No-171537.pdf)); and
21

22 **WHEREAS**, urban fertilizers contribute some degree of nutrient
23 loading to the County's watershed, and reducing all forms of avoidable
24 nutrient loading is important to protect water resources; and
25

26 **WHEREAS**, based on a rigorous study and review of scientific
27 information by County staff, additional actions are needed to address
28 nonpoint source nutrient loading to waterbodies in Miami-Dade
29 County, including nutrients that may come from urban fertilizer, to
30 protect water resources; and
31

32 **WHEREAS**, in particular, FDEP's 2008 "Florida-Friendly Best
33 Management Practices for Protection of Water Resources by the
34 Green Industries" (the "Florida-Friendly BMPs") specifically implicates
35 phosphorus "as a cause of increased algae growth in surface water
36 impoundments;" and
37

38 **WHEREAS**, according to the Florida-Friendly BMPs, because
39 "[m]any Florida soils are high in extractable P [phosphorus] and may
40 never require P [phosphorus] fertilization for optimum turfgrass

1 growth,” the Florida-Friendly BMPs “strongly recommends soil testing
2 before” phosphorus fertilization and recommends that phosphorus
3 fertilization “always be based on reliable soil or tissue test
4 recommendations;” and

5
6 **WHEREAS**, similarly, for landscape plants, the Florida-Friendly
7 BMPs generally recommend that “phosphorus content of the fertilizer
8 should be zero unless a soil tissue test indicates a need for additional
9 fertilizer;” and

10
11 **WHEREAS**, in addition to considering FDEP’s Florida-Friendly
12 BMPs, the County has considered all relevant scientific information,
13 including any other input provided by the FDEP, the Florida
14 Department of Agriculture and Consumer Services, and the University
15 of Florida Institute of Food and Agricultural Sciences, on the need for
16 additional or more stringent provisions to address fertilizer use as a
17 contributor to water quality degradation; and

18
19 **WHEREAS**, the relevant scientific information that has been
20 considered is on file with DERM and is available upon request; and

21
22 **WHEREAS**, this ordinance provides for certain exemptions from
23 its regulations, such as for bona fide farm operations; and

24
25 **WHEREAS**, the Village of Palmetto Bay wishes to adopt these
26 regulations related to fertilizer, which are consistent with and, where
27 appropriate, add to or are stricter than, FDEP’s model ordinance; and

28
29 **WHEREAS**, the Village Council authorizes the Village Manager
30 to provide enforcement authority to the Building Department, Code
31 Compliance Division.

32
33 **WHEREAS**, the Village Council request that the Village
34 Manager direct the Communications Department to conduct an
35 educational campaign to encourage compliance and better educate
36 Village residents, property owners, and fertilizer applicators about the
37 proper application of fertilizer and the importance thereof, together
38 with environmentally-sound landscaping practices that may reduce or
39 eliminate the need for fertilizer.

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1 **NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE**
2 **OF PALMETTO BAY, FLORIDA, THAT:**

3
4 **Section 1.** This chapter shall be applicable to and shall regulate
5 any and all applicators and areas of application of fertilizer, unless
6 such applicator or area is specifically exempted by the terms of this
7 chapter. This chapter shall be prospective only, and shall not be
8 construed to impair any existing contracts.

9
10 **Section 2.** The provisions set forth in this chapter shall not apply
11 to:

12 (a) Bona fide farm operations, as defined in the Florida Right to
13 Farm Act, section 823.14, Florida Statutes, as may be amended;

14 (b) Other properties that are not subject to or covered by the
15 Florida Right to Farm Act but that have pastures used for grazing
16 livestock;

17 (c) Any lands used for bona fide scientific research, including,
18 but not limited to, research on the effects of fertilizer use on urban
19 stormwater, water quality, agronomics, or horticulture.

20
21 **Section 3.** The provisions set forth in this chapter in subsection
22 18C-4(A)(1) related to the restricted period, subsection 18C-4(C)(3)
23 related to limitations on nitrogen, and subsection 18(C)-4(C)(4) related
24 to limitations on phosphorus, shall not apply to:

25 (a) Vegetable gardens, defined as a plot of ground where herbs,
26 fruits, flowers, or vegetables are cultivated for human ingestion, when
27 located on residential properties;

28 (b) Yard waste compost, mulches, or other similar materials that
29 are primarily organic in nature and are applied to improve the physical
30 condition of the soil; or

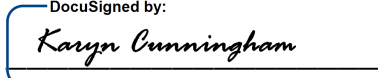
31 (c) Tree trunk injection fertilization treatments that are performed
32 by a certified arborist.

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34 **Section 4.** This Resolution shall become effective upon the date
35 of its adoption.


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37 **PASSED AND ADOPTED this 7th day of June 2021.**

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ATTEST: 
Missy Arocha
Village Clerk


Karyn Cunningham
Mayor

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE VILLAGE OF PALMETTO BAY ONLY:


John C. Dellagloria, Esq.
Village Attorney

FINAL VOTE AT ADOPTION:

- Council Member Patrick Fiore YES
- Council Member Steve Cody YES
- Council Member Marsha Matson YES
- Vice-Mayor Leanne Tellam YES
- Mayor Karyn Cunningham YES