



Town of Cutler Bay

Town Hall
10720 Caribbean Blvd
Cutler Bay, FL 33189

Memorandum

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MEMORANDUM

To: Honorable Mayor and Members of the Town Council

From: Council Member Robert “BJ” Duncan, Seat 1

Date: May 20, 2020

Re: Urging Miami-Dade County to Adopt a Countywide Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes for the Protection of Local Surface and Groundwater Quality.

REQUEST

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, URGING MIAMI-DADE COUNTY TO ADOPT A COUNTYWIDE ORDINANCE FOR FLORIDA-FRIENDLY FERTILIZER USE ON URBAN LANDSCAPES FOR THE PROTECTION OF LOCAL SURFACE AND GROUNDWATER QUALITY; PROVIDING FOR TRANSMITTAL; AND PROVIDING FOR AN EFFECTIVE DATE.

BACKGROUND AND ANALYSIS

The Town of Cutler Bay (the “Town”), a coastal community located adjacent to the Biscayne Bay Aquatic Preserve, is diligent in its efforts to preserve its environment, including the ocean, bay, waterways, wetlands, and land in between, which is vital to our regional economy and the State of Florida (the “State”). As a leader in the State for promoting environmental stewardship, the Town has ratified various resolutions and ordinances in order to protect the natural environment of the planet and of this community; conserving natural resources by minimizing its impact on said environment and resources.

The water quality of Biscayne Bay, the Atlantic Ocean, and area water channels is critical to the health of the environment, the strength of the economy (including the tourism and recreation), and the health, safety, and welfare of the residents of the Town and Miami-Dade County (the “County”). Currently, municipal and County stormwater systems discharge nutrients, such as fertilizer, into Biscayne Bay from on-land activities. The well-known effects of unregulated use of fertilizers can lead to the presence of excessive nutrients and increased levels of nitrogen in surface and ground waters, which ultimately result in detrimental effects to the Town’s environment and waters.

On September 9, 2019, the County's Biscayne Bay Task Force, (the "BBTF") reviewed relevant data and released a report on the current issues affecting Biscayne Bay. The BBTF is made up of nine (9) members who review relevant data, prior studies, and reports related to Biscayne Bay, and determine how various issues may affect residents and property owners. Based on this report, nutrients appear to be the biggest threat to Biscayne Bay. A commonly used product that is rich in nitrogen and phosphorous is fertilizer that, through rainfall, can runoff into the canals flowing towards Biscayne Bay. Fertilizer comes in a variety of compositions and, if the County can commit to a Florida-friendly fertilizer, or an equivalent that has adjusted percentages of nitrogen and phosphorous, we can reduce the amount of algae blooms that are causing catastrophic losses in the bodies of water with limited tidal flushing.

According to the *Florida Friendly Best Management Practices for Protection of Water Resources by the Green Industries* report released December 2008 by the Florida Department of Environmental Protection, the protection of water resources is enhanced through turf and landscape care practices that make the best use of technology and the practical experience of professionals. These practices address specific concerns, including the protection of water resources where pesticides and nutrients enter ground water and surface water as a result of nonpoint source pollution. In addition, developing low risk irrigation, fertilizer, and pesticide programs, and ensuring that these programs are properly administered and periodically reviewed, reduces the possibility of nutrient movement off-site.

The Florida Department of Environmental Protection has identified areas of Biscayne Bay as "impaired" as a result of excess nutrients under the Florida Impaired Waters Rule set forth in Chapter 62-303 of the Florida Administrative Code. Through the enactment of Florida Statute § 403.9337, each municipality and county located within the watershed of a water body or water segment that is listed as impaired by nutrients (pursuant to Florida Statute § 403.067) shall adopt the Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes ("Model Fertilizer Ordinance") or an equivalent as a mechanism for protecting local surface and groundwater quality.

The Town has comprehensively studied and is in the process of revising the standards in Chapter 14 "Environmental Protection," of the Town Code of Ordinances, among other things, by creating Article III, "Fertilizer Use," (the "Ordinance") to address environmental concerns and ensure sustainability and resiliency for the Town's residents and future generations. On April 22, 2020, due to the local state of emergency related to novel coronavirus, the Town Council adopted Resolution No. 20-73, invoking the Zoning in Progress Doctrine and requiring all development to temporarily comply with the proposed Ordinance until the Town Council can adopt the Ordinance.

The following is an excerpt of the purpose and intent of proposed Article III of Chapter 14 under proposed Section 14-301:

This Article regulates the proper use of Fertilizers by any Applicator; requires proper training of Commercial and Institutional Fertilizer Applicators establishes a Prohibited Application Period; specifies allowable Fertilizer Application rates and methods, fertilizer-free zones, Low Maintenance Zones, and exemptions. The Article requires the use of Best Management Practices to minimize negative secondary and cumulative environmental effects associated with the misuse of Fertilizers. These secondary and cumulative effects have been observed in and on the Town's natural and constructed stormwater systems, canals, lakes, and other water bodies. Collectively, these water bodies are an asset critical to the environmental, recreational, cultural and economic well-being of the Town's residents and the health of the public. Regulation of nutrients, including both phosphorous and nitrogen contained in Fertilizer, will help improve and maintain water and habitat quality.

It is my opinion that minimum countywide restrictions on fertilizer use will yield a positive regional impact in reducing the volume of nutrients discharged and improve water quality throughout the entire Biscayne Bay watershed. In consideration of the foregoing, I encourage the Town Council to approve this Resolution continuing the Town's commitment to environmental preservation.

RECOMMENDATION

It is recommended that the Town Council adopt the attached Resolution urging the County to implement minimum standards applicable to the incorporated and unincorporated areas of the County for the proper use and application of fertilizers by adopting a Florida-Friendly Fertilizer Ordinance, which would allow municipalities to implement more stringent, restrictive measures, if permitted by state law, in an effort to reduce pollution of our water bodies and protect local surface and groundwater quality