

MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMITTEE MEMORANDUM

TO: Sustainability and Resiliency Committee

FROM: Jimmy L. Morales, City Manager

DATE: September 25, 2019

SUBJECT: **DISCUSSION REGARDING THE USE OF PESTICIDES, HERBICIDES, AND FERTILIZERS ON BOTH PUBLIC AND PRIVATE PROPERTIES**

BACKGROUND

On February 27, 2019, the Sustainability and Resiliency Committee (SRC) held a discussion, co-sponsored by Commissioner Mark Samuelian and Commissioner Joy Malakoff, regarding the future neighborhood improvement project in the Lakeview neighborhood. Among other subjects, the discussion initiated a conversation regarding the use of pesticides, herbicides, and fertilizers and their potential to degrade surface water quality.

At the April 23 SRC meeting, staff presented an overview of existing city policies and landscape maintenance strategies, including a ban of herbicides containing glyphosate on public properties, that reduce the impacts of pesticides, herbicides and fertilizers on our waterways. Staff also presented opportunities on private property to build on these existing efforts, including the launch of a water quality campaign in Fall 2019. At the May 20 SRC meeting, staff built upon these strategies by recommending policy changes to ban or restrict the use of pesticides, herbicides, and fertilizers.

The State of Florida, under Florida Statute 482.242(1), preempts municipalities from enacting or enforcing an ordinance that regulates pest control. The Statute defines pest control as any “insect, rodent, nematode, fungus, or weed.” As such, Florida municipalities, including the City of Miami, the City of Stuart, and the City of North Miami, have focused on willingly limiting or eliminating pesticide and herbicide use on public property, as Miami Beach has already done. No cities in Florida have passed bans of pesticides or herbicides on private property at this time.

Because fertilizers are not included in the preemption, there are several county and city governments in Florida that have enacted fertilizer bans. Manatee County, Pinellas County, Lee County, Martin County and the cities of Melbourne and Cape Coral are examples of communities that have enacted a blackout period for fertilizer use during the rainy season (June 1 through September 30). The City of Boca Raton also passed an ordinance limiting fertilizer use. However, instead of banning it for the duration of rainy season, their ordinance dictates the type, amount, timing, and locations of allowed fertilizer use. For example, it restricts fertilizer application when two or more inches of rain are forecast in 24 hours.

The City Attorney’s Office, in collaboration with staff from the Public Works Department – Greenspace Division, the Parks and Recreation Department, the Code Compliance Department, and the Environment and Sustainability Department, developed the attached draft ordinance for the Committee’s consideration. The ordinance was developed using template language provided by the Florida Department of Environmental Protection and existing fertilizer ordinances that are

in place in municipalities throughout Florida. Highlights of the ordinance include a ban of fertilizer purchase and use during the rainy season (June 1 through September 30) and the designation of fertilizer-free zones within 10 feet from any pond, stream, lake or wetland. Enforcement and penalties for violations of the proposed ordinance mirror those from the city's existing polystyrene ban, including its escalating fine schedule.

CONCLUSION

The following is presented to the members of the Sustainability and Resiliency Committee for discussion and adoption.

Attachments:

A – Draft Fertilizer Ordinance

SMT/ESW/MKW