

**CITY OF AVENTURA**

**PUBLIC WORKS/TRANSPORTATION DEPARTMENT**

**MEMORANDUM**

TO: City Commission

FROM: Ronald J Wasson, City Manager



BY: Joseph S Kroll, Public Works/Transportation Director



DATE: May 28, 2021

SUBJECT: **Ordinance Creating Article IX FERTILIZER USE of Chapter 30 ENVIRONMENT**

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**June 1, 2021 City Commission Meeting Agenda Item 7**

**Recommendation:**

It is recommended that the City Commission approve the attached Ordinance creating Article IX "Fertilizer Use" of Chapter 30 "Environment" of the City Code of Ordinances relating to the regulation of fertilizer.

**Background:**

The purpose of this ordinance is to regulate the proper use of fertilizers by fertilizer applicators, which also requires proper training of commercial and institutional fertilizer applicators; and will establish a prohibited application period. In addition, this will set application rate restrictions and methods. This ordinance will help improve and maintain water and habitat quality.

Attachments:

Exhibit "A" Ordinance

JSK/gf

JSK21011

**ORDINANCE NO. 2021-\_\_**

**AN ORDINANCE OF THE CITY OF AVENTURA, FLORIDA, CREATING ARTICLE IX, "FERTILIZER USE," OF CHAPTER 30, "ENVIRONMENT," OF THE CITY CODE OF ORDINANCES RELATING TO THE REGULATION OF FERTILIZER APPLICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, excessive nutrients and/or increasing levels of nitrogen and phosphorus in the surface and/or ground water have resulted in the impairment of surface waters throughout Florida; and

**WHEREAS**, pursuant to Section 403.9337, Florida Statutes, county and municipal governments located within the watershed of a water body must, at minimum, adopt an ordinance following Florida's Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes; and

**WHEREAS**, on April 20, 2021, the Miami-Dade County Board of County Commissioners adopted Ordinance No. 21-26, imposing minimum countywide standards regulating the use of fertilizer ("County Ordinance"); and

**WHEREAS**, in accordance with Section 403.9337, Florida Statutes, and the County Ordinance, the City Commission desires to implement an ordinance regulating the use of fertilizers on turf and landscaping within the City to protect surface and/or ground water, including the waters of Biscayne Bay; and

**WHEREAS**, the City Commission finds that this Ordinance is in the best interest of the City and the City's residents.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF AVENTURA, FLORIDA, AS FOLLOWS:<sup>1</sup>**

**Section 1. Recitals Incorporated.** That each of the above-stated recitals are

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<sup>1</sup> Additions to existing City Code text are indicated by underline; deletions from existing City Code text are indicated by strikethrough.

hereby adopted and confirmed.

**Section 2. Creating Article IX of Chapter 30 of the Code.** That Article IX of Chapter 30, of the Code of Ordinances is here by created to read as follows:

Chapter 30 – Environment

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**ARTICLE IX. - FERTILIZER USE.**

**Section 30-220. - Purpose and intent.**

This article regulates the proper use of fertilizers by fertilizer applicators; requires proper training of commercial and institutional fertilizer applicators; establishes a prohibited application period for fertilizers; sets forth fertilizer application rate restrictions and methods; creates fertilizer-free zones and low maintenance zones; and provides for limited fertilizer regulation 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 Biscayne Bay and the City's natural and constructed stormwater systems, lakes, and other water bodies. Collectively, these surface waters are a critical asset to the environmental, recreational, cultural, and economic well-being of the City's residents and the health of the public. Regulation of nutrients, including both phosphorus and nitrogen contained in fertilizer, will help improve and maintain water and habitat quality.

**Section 30-221. - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

*Application* or *apply* means the actual physical deposit of fertilizer to turf or landscape plants.

*Applicator* means any person who applies fertilizer on turf and/or landscape plants in the City.

*Best management practices* means turf and landscape practices, or combination of practices based on research, field-testing, and expert review, determined to be the most effective and practicable on-location means, including economic and technological considerations, for improving water quality, conserving water supplies and protecting natural resources, including the guidelines set forth in the Florida Department of Environmental Protection's "Florida Green Industries Best Management Practices for Protection of Water Resources in Florida" Manual.

*Commercial fertilizer applicator* means any person who applies fertilizer for payment or other consideration to property not owned by the person or firm applying the fertilizer or the employer of the applicator, except as provided in Section 482.1562(9), Florida Statutes.

*Fertilize, fertilizing, or fertilization* means the act of applying fertilizer to turf, specialized turf, or landscape plants.

Fertilizer means any substance or mixture of substances that contains one or more recognized plant nutrients and promotes plant growth, or controls soil acidity or alkalinity, or provides other soil enrichment, or provides other corrective measures to the soil.

Guaranteed analysis means the percentage of plant nutrients or measures of neutralizing capability claimed to be present in a fertilizer.

Institutional applicator means any person, other than a private, non-commercial or a commercial applicator (unless such definitions also apply under the circumstances), that applies fertilizer for the purpose of maintaining turf and/or landscape plants. Institutional applicators shall include, but shall not be limited to, owners, managers, or employees of public lands, schools, parks, religious institutions, utilities, business sites and any residential properties maintained in condominium and/or common ownership.

Landscape plant means any native or exotic tree, shrub, or groundcover (excluding turf).

Low maintenance zone means an area a minimum of ten feet wide adjacent to surface waters which is planted and managed in order to minimize the need for fertilization, watering, mowing, etc.

Person means any natural person, business, corporation, limited liability company, partnership, limited partnership, association, club, organizations, and/or any group of people acting as an organized entity.

Prohibited application period means the time period during which a flood watch or warning, or a tropical storm watch or warning, or a hurricane watch or warning is in effect for any portion of the county, issued by the National Weather Service, or if heavy rain (two inches or more) is likely.

Restricted application period means May 15 to October 31.

Saturated soil means a soil in which the voids are filled with water. Saturation does not require flow. For the purposes of this article, soils shall be considered saturated if standing water is present or the pressure of a person standing on the soil causes the release of free water.

Slow release, controlled release, timed release, slowly available, or water insoluble nitrogen means nitrogen in a form which delays its availability for plant uptake and use after application, or which extends its availability to the plant longer than a reference rapid or quick release product.

Surface waters means waters on the surface of the earth, including the Atlantic Ocean, Biscayne Bay, lakes, ponds, canals, and other similar water bodies.

Turf, sod, or lawn means a piece of grass-covered soil held together by the roots of the grass.

Section 30-222. – Applicability. This article shall be applicable to and shall regulate any and all applicators of fertilizer and areas of application of fertilizer within the City, unless such applicator is specifically exempted by the terms of this article.

Section 30-223. - Timing of fertilizer application.

(a) No applicator shall apply fertilizers containing nitrogen and/or phosphorus to turf and/or landscape plants during the prohibited application period, the restricted application period, or to saturated soil.

(b) Fertilizer shall only be applied to actively growing turf that is not dormant, dead or unestablished.

- (c) Fertilizer containing nitrogen or phosphorus shall not be applied before seeding or sodding a site, and shall not be applied for the first 60 days after seeding or sodding, except when hydroseeding for temporary or permanent erosion control in an emergency situation or in accordance with the stormwater pollution prevention plan for that site.

Section 30-224. – Fertilizer Zones.

- (a) Fertilizer free zones. Fertilizer shall not be applied within 20 feet of any surface waters, including the Atlantic Ocean, Biscayne Bay, lakes, ponds, and/or canals, or from the top of a seawall.
- (b) Low maintenance zones. A voluntary ten foot low maintenance zone is strongly recommended, but not mandated, from any surface waters or from the top of a seawall. A swale/berm system is recommended for installation at the landward edge of this low maintenance zone to capture and filter runoff. No mowed or cut vegetative material may be deposited or left remaining in this zone or deposited in the water. Care should be taken to prevent the over-spray of aquatic weed products in this zone.

Section 30-225. - Fertilizer application.

- (a) Fertilizers applied to turf and/or landscape plants within the City shall be applied at the lowest rate necessary in accordance with best management practices.
- (b) Fertilizer containing nitrogen shall be applied to turf and/or landscape plants in an amount not to exceed one (1) pound of nitrogen per 1,000 square feet per application and no more than four (4) pounds of nitrogen per 1,000 square feet in a calendar year.
- (c) Fertilizer containing phosphorus shall not be applied to turf and/or landscape plants in the City, except where a phosphorus deficiency has been demonstrated in the soil underlying the turf and/or landscape plants by a soil analysis test performed by a state certified laboratory. Any person who obtains a soil analysis test showing a phosphorus deficiency and who wishes to apply phosphorus to turf and/or landscape plants shall provide a copy of the test results to the City Manager or designee for approval prior to the application of phosphorus. Where a phosphorus deficiency has been demonstrated and approved by the City, fertilizer containing phosphorus shall be applied in an amount not to exceed 0.25 pounds of phosphorus per 1,000 square feet per application and no more than 0.5 pounds of phosphorus per 1,000 square feet in a calendar year.
- (d) The nitrogen content of granular fertilizers applied to turf or landscape plans within the City shall contain at least 65 percent slow release, controlled release, timed release, slowly available, or water insoluble nitrogen per guaranteed analysis label. Caution shall be used to prevent direct deposition of nutrients in the water.
- (e) Liquid fertilizers containing nitrogen applied to turf and/or landscape plants shall not be applied at a rate that exceeds 0.5 pounds per one thousand (1,000) square feet per application, and no more than four (4) pounds of nitrogen per 1,000 square feet in a calendar year.

Section 30-226. - Application practices.

- (a) Spreader deflector shields are required when fertilizing via rotary (broadcast) spreaders. Deflectors must be positioned such that fertilizer granules are deflected away from all impervious surfaces, fertilizer-free zones, and water bodies, including wetlands.
- (b) Fertilizer shall not be applied, spilled, or otherwise deposited on any impervious surfaces.
- (c) Any fertilizer applied, spilled, or deposited, either intentionally or accidentally, on any impervious surface shall be immediately and completely removed to the greatest extent practicable.
- (d) Fertilizer released on an impervious surface must be immediately contained and either legally applied to turf and/or landscaping, or returned to the original or other appropriate container.
- (e) In no case shall fertilizer be washed, swept, or blown off impervious surfaces into stormwater systems or water bodies.
- (f) Grass clippings, vegetative material, and/or vegetative debris shall not be washed, swept, or blown off into stormwater drains, ditches, surface waters, sidewalks, or roadways. Any material that is accidentally deposited shall be immediately removed to the maximum extent practicable.

Section 30-227. - Exemptions.

The provisions set forth above in this article shall not apply to:

- (a) 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 best management practices;
- (b) Other properties not subject to or covered under the Florida Right to Farm Act that have pastures for grazing livestock provided that fertilizers are applied in accordance with best management practices;
- (c) Any lands used for bona fide scientific research including, but not limited to, research on the effect of fertilizer use on urban stormwater, water quality, agronomics, or horticulture.
- (d) City owned, leased, or maintained athletic fields, or private or publicly owned, leased, or maintained golf courses.

Section 30-228. - Training.

- (a) All commercial and institutional fertilizer applicators of fertilizer within the City's jurisdiction shall abide by and successfully complete the six-hour training program in the Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries offered by the Florida Department of Environmental Protection through the University of Florida's Florida-Friendly Landscapes Program (or an approved equivalent).
- (b) Private, non-commercial applicators are required to follow the recommendations of the University of Florida's Florida Yards and Neighborhoods Program when applying fertilizers.
- (c) All commercial applicators of fertilizer within the City's jurisdiction shall have and carry in their possession at all times when applying fertilizer evidence of certification by the Florida Department of Agriculture and Consumer Services for commercial fertilizer application.

(d) Prior to a business applying fertilizer to turf and/or landscape plants, the business must ensure that at least one employee has completed the six-hour training program in the Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries (or an approved equivalent). Upon request, a business shall provide proof of completion of the program to the City Manager or designee.

Section 30-229. - Enforcement; penalties.

(a) Following adoption of this article, the City shall engage in public education efforts to inform the public of the provisions of this article.

(b) Beginning July 31, 2021, the City's code compliance division shall enforce all provisions of this article.

(c) Violations of the provisions of this article shall be enforced through Article V, "Code Enforcement," Chapter 2 of the City Code and shall be subject to the following penalties:

(1) First violation: written warning;

(2) Second violation: a fine of \$250.00.

(3) Third and subsequent violations: a fine of \$500.00.

(d) Each day in violation of these regulations within a 365 day period, beginning with the date of the first violation, shall constitute a separate offense. The City Commission or City Manager may approve any other appropriate legal action, including but not limited to emergency injunctive action, to enforce the provisions of this Code.

(e) In addition to any applicator, commercial fertilizer applicator, or institutional applicator, the owner of any real property upon which any fertilizer regulated herein is applied shall be responsible for compliance with this article to the same extent as the applicator, commercial fertilizer applicator, or institutional applicator.

**Section 3. Severability.** That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 4. Inclusion in the Code.** That it is the intention of the City Commission and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of Aventura, that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions, and that the word Ordinance shall be changed to Section or other appropriate word.

**Section 5. Conflicts.** That all ordinances or parts of ordinances, resolutions or

parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

**Section 6. Effective Date.** That this Ordinance shall be effective immediately upon adoption on second reading.

The foregoing Ordinance was offered by Commissioner \_\_\_\_\_, who moved its adoption on first reading. This motion was seconded by Commissioner \_\_\_\_\_, and upon being put to a vote, the vote was as follows:

Commissioner Jonathan Evans	_____
Commissioner Rachel S. Friedland	_____
Commissioner Denise Landman	_____
Commissioner Marc Narotsky	_____
Commissioner Robert Shelley	_____
Vice Mayor Dr. Linda Marks	_____
Mayor Enid Weisman	_____

The foregoing Ordinance was offered by Commissioner \_\_\_\_\_, who moved its adoption on second reading. This motion was seconded by Commissioner \_\_\_\_\_, and upon being put to a vote, the vote was as follows:

Commissioner Jonathan Evans	_____
Commissioner Rachel S. Friedland	_____
Commissioner Denise Landman	_____
Commissioner Marc Narotsky	_____
Commissioner Robert Shelley	_____
Vice Mayor Dr. Linda Marks	_____
Mayor Enid Weisman	_____



**PASSED** on first reading on this 1<sup>st</sup> day of June, 2021.

**PASSED AND ADOPTED** on second reading on this 17<sup>th</sup> day of June, 2021.

\_\_\_\_\_  
ENID WEISMAN, MAYOR

ATTEST:

\_\_\_\_\_  
ELLISA L. HORVATH, MMC  
CITY CLERK


APPROVED AS TO LEGAL SUFFICIENCY:


\_\_\_\_\_  
CITY ATTORNEY

**CITY OF AVENTURA**  
**FINANCE DEPARTMENT**

**MEMORANDUM**

TO: City Commission

FROM: Ronald J. Wasson, City Manager 

BY: Brian K. Raducci, Assistant City Manager – Finance and Administration 

DATE: April 30, 2021

SUBJECT: **Ordinance Amending the 2020/2021 Aventura City of Excellence School Charter School Fund (“ACES”) Budget**

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**1<sup>st</sup> Reading May 4, 2021 City Commission Meeting Agenda Item 8A**  
**2<sup>nd</sup> Reading June 1, 2021 City Commission Meeting Agenda Item 8A**

**RECOMMENDATION**

It is recommended that the City Commission approve the attached Ordinance amending the 2020/2021 Aventura City of Excellence School Charter School Fund (“ACES”) Budget in the amount of \$314,694 as outlined below.

**BACKGROUND**

As we quickly approach the ACES year-end, it is necessary to formally amend the 2020/2021 budget to ensure that the “final” adopted budget contains sufficient appropriations to satisfy all of the actual expenditures.

As a result, the attached document has been prepared by City staff in collaboration with the ACES’ Administration to project the final year-end revenues and expenditures to ensure that any revenue overages and expenditure overruns are properly identified and adjusted where necessary. This “clean up” amendment process is a normal part of our year-end fiscal operations and is in large part due to the impacts created by the global pandemic crises (“COVID-19”).

All revenues and expenditures have been reviewed and analyzed and will be adjusted if necessary. The explanations provided are not designed to be all inclusive, but rather provide a framework for the necessary adjustments. Listed below is a summary of the ACES 2020/2021 amendments, the underlying circumstances that support each recommendation and the supporting schedule – “Exhibit A”.