

4 **An Ordinance amending the City of South Miami Code of Ordinances to create**
5 **"Chapter 15D – Environmental Protection" to create definitions, adopt**
6 **regulations on the use of gas-powered leaf blowers within the City of South**
7 **Miami, provide for a temporary suspension for storm and hurricane cleanup,**
8 **establish enforcement and penalty provisions, and provide for a financial**
9 **hardship waiver.**

10
11
12 **WHEREAS**, the City of South Miami ("City") declares that it is in the interest of the public
13 health, safety, and welfare of its residents and visitors to reduce litter and pollutants on the land
14 and in the air and waters of the City; and

15
16 **WHEREAS**, a leaf blower is a widely available gardening tool used to manage leaves,
17 clippings, and other debris; and

18
19 **WHEREAS**, most gas-powered leaf blowers use two-stroke engines, which mix gas and
20 oil; and

21
22 **WHEREAS**, about 30 percent of the gas the engine uses fails to undergo complete
23 combustion, and as a result, the engine emits a number of specific air pollutants of concern, such
24 as: hydrocarbons from both burned and unburned fuel, which combine with other gases in the
25 atmosphere to form ozone; carbon monoxide; fine particulate matter; and other toxic air
26 contaminants in the unburned fuel, including benzene, 1,3-butadiene, acetaldehyde, and
27 formaldehyde¹; and

28
29 **WHEREAS**, a 2011 test by the car experts at Edmunds showed that "a consumer-grade
30 leaf blower emits more pollutants than a 6,200-pound 2011 Ford F-150 SVT Raptor"²; and

31
32 **WHEREAS**, during the Edmunds test, the company subjected a truck, a sedan, a four-
33 stroke leaf blower, and a two-stroke leaf blower to automotive emissions tests and found that under
34 normal usage conditions - alternating the blower between high power and idle, for example - the
35 two-stroke engine - emitted nearly 299 times the hydrocarbons of the pickup truck, 93 times the
36 hydrocarbons of the sedan, and many times as much carbon monoxide and nitrogen oxides as well;
37 and

38
39 **WHEREAS**, the four-stroke engine performed significantly better than the two-stroke in
40 most of the categories, but still far worse than the car engines; and

41

¹ <https://ww2.arb.ca.gov/sites/default/files/2018-11/Health%20and%20Environmental%20Impacts%20of%20Leaf%20Blowers.pdf>

² <https://www.edmunds.com/about/press/leaf-blowers-emissions-dirtier-than-high-performance-pick-up-trucks-says-edmunds-insidelinecom.html>

42 **WHEREAS**, in 2017, the California Air Resources Board ("CARB") issued a warning that
43 by 2020 gas-powered leaf blowers, lawn mowers, and similar equipment in the state could produce
44 more ozone pollution than all the millions of cars in California combined; and
45

46 **WHEREAS**, according to CARB's determination, running a gas-powered leaf blower for
47 one hour emits the same amount of pollution as driving a light-duty passenger vehicle for
48 approximately 1,100 miles³; and
49

50 **WHEREAS**, in addition to environmental impacts, air emissions from gas-powered leaf
51 blowers have adverse health effects on workers; and
52

53 **WHEREAS**, counties, cities and urban areas are in a unique position to combat climate
54 change, because cities and urban areas are responsible for producing 70 percent of climate
55 changing greenhouse gas ("GHG") emissions worldwide⁴; and
56

57 **WHEREAS**, the City has already taken steps to aggressively address climate change,
58 promote the use of renewable energy, and reduce our community's emissions; and
59

60 **WHEREAS**, on February 3rd, 2009, the City Commission passed Resolution No. 23-09-
61 12832 adopting a goal of carbon neutrality for municipal operations by the year 2030 and the
62 Mayor and City Commission resolved that the "City of South Miami and all of its departments and
63 boards shall coordinate and implement the Carbon Neutral Initiative, insofar as funds, voluntary
64 efforts, or other resources become available, in particular, working to partner with efforts of
65 governments, agencies, institutions and other appropriate public and private organizations in our
66 region, and to track the progress and implementation of the initiative"; and
67

68 **WHEREAS**, on May 7th, 2019, the City Commission unanimously passed Resolution 59-
69 19-15331 committing the City to transition to 100 percent clean, renewable energy community-
70 wide by 2040; and
71

72 **WHEREAS**, the City Commission finds that the use of gas-powered leaf blowers to clear
73 leaves, clippings, and other debris on public and private property affects air quality, water quality,
74 contributes to GHG emissions, and impacts environmental health and noise levels throughout the
75 City; and
76

77 **WHEREAS**, the City Commission also finds that a number of alternatives exist, such as
78 portable or plug-in electric leaf blowers and non-motorized tools such as rakes; and
79

80 **WHEREAS**, the City Commission wishes to provide a reasonable phase-in period during
81 which City staff can conduct outreach to inform and educate residents and landscape maintenance
82 companies of the provisions of this Ordinance, and the availability of alternatives to gas-powered
83 leaf blowers; and
84

³ <https://ww2.arb.ca.gov/resources/fact-sheets/small-engines-california>
⁴ <https://news.un.org/en/story/2019/09/1046662>

85 **WHEREAS**, this Ordinance will preserve and enhance the environment of the City of
86 South Miami; and

87
88 **WHEREAS**, the City desires to amend the City’s Code of Ordinances to create Chapter
89 15D – Environmental Protection.

90
91 **NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY**
92 **COMMISSION OF THE CITY OF SOUTH MIAMI, FLORIDA:**

93
94 **Section 1.** The foregoing recitals are hereby ratified and incorporated by reference as if
95 fully set forth herein and as the legislative intent of this Ordinance.

96
97 **Section 2.** Chapter 15D of the Code of Ordinances, City of South Miami, Florida, is hereby
98 created and shall read as follows:

99
100 **Chapter 15D – ENVIRONMENTAL PROTECTION**

101 **Article I. – IN GENERAL**

102 Section 15D-1. – Definitions.

103
104 The following words, terms, and phrases, when used in this Article, shall have the
105 meanings ascribed to them in this section, except where the context clearly indicates a
106 different meaning:

107
108 *Civil Citation* has the same meaning as defined in Section 2-25.

109
110 *Courtesy Civil Citation* means a Civil Citation that informs the recipient of the
111 violation but that does not penalize the violator.

112 *Leaf blower* means any air blowing device that uses a concentrated stream of air to
113 push, propel or blow dirt, dust, leaves, grass clippings, trimmings, cuttings, refuse or debris.

114 *Special Magistrate* has the same meaning as defined in Section 2-25 of this Code.

115 *Statutory Interest* means the interest rate set by Florida Statute for judgments issued
116 by Florida courts.

117
118 **Article II – LEAF BLOWERS**

119 **Section 15D-2.1. – Regulations on the use of leaf blowers.**

120 The use of a gas-powered leaf blower is prohibited within the City in accordance
121 with Section 15D-2.3 of this Article II. Electric-powered leaf blowers may be used within
122 the City, consistent with the regulations set forth in Chapter 15D of the City’s Code of
123 Ordinances (Code). A citation shall be issued to the property owner and to the business
124
125
126
127
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131 that is performing the work using a gas-powered leaf-blower. Private property owners and
132 businesses are encouraged to operate electric-powered leaf blowers in a manner that
133 reduces noise and pollution generated by the equipment, including, without limitation, by
134 not continuously running equipment and by using equipment that operates at a low decibel
135 range (i.e., 65 dB at 50 feet). A \$100 rebate will be given to any homeowner in the City
136 who gives the City a used and functioning gas-powered leaf-blower and provides the City
137 with a receipt for the purchase by said homeowner of an electric leaf-blower with a
138 maximum decibel level of 65 dB at 50 feet. The rebate is limited to one for each household.

139
140 **Section 15D-2.2. – Temporary suspension for storm and hurricane cleanup.**

141
142 _____ In the event of a hurricane, tropical storm, or similar extreme weather event, the
143 City Manager, in the manager's sole discretion, may temporarily suspend provisions of this
144 Article II to permit the use of gas-powered leaf blowers for debris cleanup.

145
146 **Section 15D-2.3. – Enforcement: penalties.**

147
148 (a) Beginning on February 1, 2022, and extending through October 31, 2022, the City
149 shall engage in public education efforts to inform residents and businesses of the
150 provisions of this Article II and to provide assistance with identifying alternatives
151 to gas-powered leaf blowers.

152
153 (b) Beginning on November 1, 2022, the City shall provide for a nine-month warning
154 period through and including July 31, 2023, during which the Code Enforcement
155 Division may only issues Courtesy Civil Citations.

156
157 (c) Beginning on August 1, 2023, (Enforcement Date) the Code Enforcement Division
158 must fully enforce the provisions of this Article II.

159
160 (d) If a Code Enforcement officer finds a violation of this Article II, the Code
161 Enforcement officer must first have issued a Courtesy Civil Citation before issuing
162 a Civil Citation. The Courtesy Civil Citation and the Civil Citation must inform
163 the violator, at a minimum, of the nature of the violation, the amount of fine for
164 which the violator is liable, the due date for paying the fine and instructions on how
165 to pay the fine, the right to request an administrative hearing before the City's
166 Special Magistrate (Special Magistrate) within ten days after service of the Civil
167 Citation, and that the failure to request an administrative hearing within ten days of
168 service of the Civil Citation will constitute an admission of the violation and a
169 waiver of the right to a hearing.

170
171 (e) A violator who has been served with a Civil Citation must elect to either:

172
173 (1) Pay the civil fine set forth in the City's schedule of fines and, if none is
174 provide for a violation of this Article II, then as follows:

175
176 a. First violation within a 12-month period \$250.00;

177 b. Second and all subsequent violations within a 12-month period
178 \$500.00;

179 or

180
181
182 (2) Request an administrative hearing before the Special Magistrate to
183 adjudicate the Civil Citation, which must be requested within ten days of
184 the service of the Civil Citation. The procedures for the administrative
185 hearing of the Civil Citation is as set forth in Section 2-25 of this Code.

186
187 (f) Failure to timely request an administrative hearing before the Special Magistrate,
188 constitutes a waiver of the violator's right to an administrative hearing before the
189 Special Magistrate, and is treated as an admission of the violation, for which fines
190 and penalties must be assessed accordingly.

191
192 (g) A certified copy of an order imposing a fine may be recorded in the public records,
193 and thereafter the fine and accrued interest on the fine constitutes a lien upon all
194 real and personal property owned by the violator, which may be enforced in the
195 same manner as a court judgment, including levy against the violator's real or
196 personal property. All unpaid fines, including partially unpaid fines, accrue interest
197 at the Statutory Interest rate for each day that the fine, or portion thereof, remains
198 unpaid. After three months following the recording of the order imposing the fine,
199 the City may foreclose or otherwise execute upon the lien for the amount of the lien
200 that is owed plus accrued Statutory Interest.

201
202 (h) The Special Magistrate is prohibited from hearing the merits of the Citation or
203 considering the timeliness of a request for an administrative hearing if the violator
204 has failed to request an administrative hearing within ten days of the service of the
205 Citation. The Special Magistrate shall not have discretion to alter the penalties
206 prescribed in this Article II. Any party aggrieved by a decision of the Special
207 Magistrate may appeal that decision to a court of competent jurisdiction.

208
209 **Section 15D-2.4. – Financial hardship waiver.**

210
211 Any property owner or principal of a business that reported a household annual
212 gross income of 80% of the area median income, or less, on its income tax filing for the
213 most recent tax year, may submit a written request to the City Manager, on a form prepared
214 by the City Manager, for a financial hardship waiver of the requirements of this Article II.
215 The City Manager may grant a waiver if the property owner or principal of the business
216 provides the following:

217
218 (a) income tax filing for the most recent tax year and written authorization to request
219 such filing from the Internal Revenue Service; and

220
221 (b) Competent substantial evidence that:
222

223 (1) there is no comparable alternative product that does not use gas to power up
224 leaf blowers; or

225
226 (2) The purchase or use of an alternative product would create an undue
227 financial hardship.

228
229 A financial hardship waiver will only be valid for 12 months but may be renewed
230 upon application to the City Manager. If an administrative hearing is requested pursuant to
231 Section 15D-2.3, a pending financial hardship waiver request is a ground for a continuance
232 of the administrative hearing, but only if the Civil Citation was issued after the submittal
233 of the financial hardship waiver request.

234
235 **Section 3. Corrections.** Conforming language or technical scrivener-type corrections may
236 be made by the City Attorney for any conforming amendments to be incorporated into the final
237 ordinance for signature.

238
239 **Section 4. Ordinances in Conflict.** All ordinances or parts of ordinances and all sections
240 and parts of sections of ordinances in direct conflict herewith are hereby repealed.

241
242 **Section 5. Codification.** The provisions of this ordinance will become and be made a part
243 of the Code of Ordinances of the City of South Miami as amended.

244
245 **Section 6. Severability.** If any section, clause, sentence, or phrase of this ordinance is for
246 any reason held invalid or unconstitutional by a court of competent jurisdiction, this holding will
247 not affect the validity of the remaining portions of this ordinance.

248
249 **Section 7. Effective Date.** This ordinance is effective upon enactment.

250
251 **PASSED AND ENACTED** this ____ day of _____, 2022.

252
253 ATTEST:

APPROVED:

254
255 _____

256 CITY CLERK

MAYOR

257 1st Reading

258 2nd Reading

259
260 READ AND APPROVED AS TO FORM,
261 LANGUAGE, LEGALITY AND
262 EXECUTION THEREOF

COMMISSION VOTE:

Mayor Philips:

Commissioner Gil:

Commissioner Harris:

Commissioner Liebman:

Commissioner Corey:

263
264
265 _____

266 CITY ATTORNEY

267