

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

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

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

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

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

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

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

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

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

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

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

43       **WHEREAS**, according to CARB's determination, running a gas-powered leaf blower for  
44 one hour emits the same amount of pollution as driving a light-duty passenger vehicle for  
45 approximately 1,100 miles<sup>3</sup>; and  
46

47       **WHEREAS**, in addition to environmental impacts, air emissions from gas-powered leaf  
48 blowers have adverse health effects on workers; and  
49

50       **WHEREAS**, counties, cities and urban areas are in a unique position to combat climate  
51 change, because cities and urban areas are responsible for producing 70 percent of climate  
52 changing greenhouse gas ("GHG") emissions worldwide<sup>4</sup>; and  
53

54       **WHEREAS**, the City has already taken steps to aggressively address climate change,  
55 promote the use of renewable energy, and reduce our community's emissions; and  
56

57       **WHEREAS**, on February 3rd, 2009, the City Commission passed Resolution No. 23-09-  
58 12832 adopting a goal of carbon neutrality for municipal operations by the year 2030 and the  
59 Mayor and City Commission resolved that the "City of South Miami and all of its departments and  
60 boards shall coordinate and implement the Carbon Neutral Initiative, insofar as funds, voluntary  
61 efforts, or other resources become available, in particular, working to partner with efforts of  
62 governments, agencies, institutions and other appropriate public and private organizations in our  
63 region, and to track the progress and implementation of the initiative"; and  
64

65       **WHEREAS**, on May 7th, 2019, the City Commission unanimously passed Resolution 59-  
66 19-15331 committing the City to transition to 100 percent clean, renewable energy community-  
67 wide by 2040; and  
68

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

74       **WHEREAS**, the City Commission also finds that a number of alternatives exist, such as  
75 portable or plug-in electric leaf blowers and non-motorized tools such as rakes; and  
76

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

82       **WHEREAS**, this Ordinance will preserve and enhance the environment of the City of  
83 South Miami; and  
84

85       **WHEREAS**, the City desires to amend the City's Code of Ordinances to create Chapter  
86 15D – Environmental Protection.

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<sup>3</sup> <https://ww2.arb.ca.gov/resources/fact-sheets/small-engines-california>

<sup>4</sup> <https://news.un.org/en/story/2019/09/1046662>

87  
88 **NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY**  
89 **COMMISSION OF THE CITY OF SOUTH MIAMI, FLORIDA:**  
90

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

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

97 **Chapter 15D – ENVIRONMENTAL PROTECTION**  
98

99 **Article I. – IN GENERAL**  
100

101 **Section 15D-1. – Definitions.**  
102

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

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

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

112 **Landscaping Equipment means mowers, edgers, leaf blowers and other equipment**  
113 **powered by electricity or gas and used for the maintenance of landscaping by an individual**  
114 **or business.**  
115

116 *Leaf blower* means any air blowing device that uses a concentrated stream of air to  
117 push, propel or blow dirt, dust, leaves, grass clippings, trimmings, cuttings, refuse or debris.  
118

119  
120 *Special Magistrate* has the same meaning as defined in Section 2-25 of this Code.  
121

122 *Statutory Interest* means the interest rate set by Florida Statute for judgments issued  
123 by Florida courts.  
124

125 **Article II – LEAF BLOWERS LANDSCAPING EQUIPMENT**  
126

127 **Section 15D-2.1. – Regulations on the use of Gas Powered Landscaping Equipment.**  
128

129 The use of a gas-powered leaf blower Landscaping Equipment is prohibited within  
130 the City in accordance with Section 15D-2.3 of this Article II. Electric-powered leaf  
131 blowers Landscaping Equipment may be used within the City, consistent with the  
132 regulations set forth in Chapter 15D of the City’s Code of Ordinances (Code). A citation

shall be issued to the property owner and to the business that is performing the work using a gas-powered ~~leaf blower~~ Landscaping Equipment. Private property owners and businesses are encouraged to operate electric-powered ~~leaf blowers~~ Landscaping Equipment in a manner that reduces noise and pollution generated by the equipment, including, without limitation, by not continuously running equipment and by using equipment that operates at a low decibel range (i.e., 65 dB at 50 feet). A \$100 rebate will be given to any homeowner in the City who gives the City a used and functioning gas-powered leaf blower and provides the City with a receipt for the purchase by said homeowner of an electric leaf blower with a maximum decibel level of 65 dB at 50 feet. The rebate is limited to one for each household.

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

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

#### **Section 15D-2.3. – Enforcement: penalties.**

- (a) Beginning on February 1, 2022, and extending through October 31, 2022, the City shall engage in public education efforts to inform residents and businesses of the provisions of this Article II and to provide assistance with identifying alternatives to gas-powered ~~leaf blowers~~ Landscaping Equipment.
- (b) Beginning on November 1, 2022, the City shall provide for a nine-month warning period through and including July 31, 2023, during which the Code Enforcement Division may only issues Courtesy Civil Citations.
- (c) Beginning on August 1, 2023, (Enforcement Date) the Code Enforcement Division must fully enforce the provisions of this Article II.
- (d) If a Code Enforcement officer finds a violation of this Article II, the Code Enforcement officer must first have issued a Courtesy Civil Citation before issuing a Civil Citation. The Courtesy Civil Citation and the Civil Citation must inform the violator, at a minimum, of the nature of the violation, the amount of fine for which the violator is liable, the due date for paying the fine and instructions on how to pay the fine, the right to request an administrative hearing before the City's Special Magistrate (Special Magistrate) within ten days after service of the Civil Citation, and that the failure to request an administrative hearing within ten days of service of the Civil Citation will constitute an admission of the violation and a waiver of the right to a hearing.
- (e) A violator who has been served with a Civil Citation must elect to either:

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

- a. First violation within a 12-month period ..... \$250.00;
- b. Second and all subsequent violations within a 12-month period ..... \$500.00;

or

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

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

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

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

#### **Section 15D-2.4. – Financial hardship waiver.**

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

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

(b) Competent substantial evidence that:

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

(2) The purchase or use of ~~an alternative product~~ Electric Landscaping Equipment would create an undue financial hardship.

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

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

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

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

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

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

**PASSED AND ENACTED** this \_\_\_\_ day of \_\_\_\_\_, 2022.

ATTEST:

APPROVED:

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR

1<sup>st</sup> Reading

2<sup>nd</sup> Reading

READ AND APPROVED AS TO FORM,  
LANGUAGE, LEGALITY AND  
EXECUTION THEREOF

COMMISSION VOTE:  
Mayor Philips:  
Commissioner Gil:  
Commissioner Harris:

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CITY ATTORNEY

Commissioner Liebman:  
Commissioner Corey: