

**CITY OF SANIBEL
RESOLUTION 23-085**

A RESOLUTION OF THE CITY OF SANIBEL CITY COUNCIL IN SUPPORT OF THE SANIBEL STRICT RAINY SEASON BAN URBAN FERTILIZER ORDINANCE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, several of the City of Sanibel's waterways do not meet water quality standards, and nutrient pollution is our most significant water quality problem; and

WHEREAS, nutrient pollution (i.e., excess nitrogen and phosphorous) originates from many sources, including urban stormwater; and

WHEREAS, nitrogen and phosphorus fertilizer applied on lawns and landscapes can leach and run off yards into waterways and fuel harmful algae outbreaks; and

WHEREAS, nitrogen and phosphorous pollution-fueled algae blooms can produce toxins and deplete oxygen in the water, killing fish, submerged aquatic vegetation and seagrass meadows, other aquatic organisms, waterfowl, pets, and livestock; and

WHEREAS, several critical bodies of water of which Sanibel is downstream or in their watershed, are designated by the Florida Department of Environmental Protection (FDEP) as impaired, including but not limited to, the Charlotte Harbor and Calooshatchee River estuaries, the Pine Island Sound, San Carlos Bay, Sanibel Bayou, and the Dunes Community stormwater lakes, of which are of critical environmental, economic, and recreational importance to our community; and

WHEREAS, harmful algae blooms, fish kills, and the degradation of our natural resources have negative economic impacts on our local tourism economy, property values, and quality of life of our residents; and

WHEREAS, the City of Sanibel ordinance and education program to manage the timing, quantity, and content of fertilizers applied to urban landscapes are the most cost-effective steps the City has taken to better manage stormwater, and protect water quality and the quality of life of residents; and

WHEREAS, the City of Sanibel is among eighteen counties and over one hundred municipalities (see Exhibit A) that have adopted "strong" urban fertilizer ordinances that include strict, no exemption, rainy season application bans, and a number of other protective provisions related to the content and rate of fertilizer application; and

WHEREAS, Chapter 203-240, Laws of Florida, the Implementing Bill for the General Appropriations Act for Fiscal Year 2023-24, Section 85, provides that "in order to implement Specific Appropriation 146 of the 2023-2024 General Appropriations Act, a county or municipal government may not adopt or amend a fertilizer management ordinance, pursuant to Section

403.9337, Florida Statutes, which provides for a prohibited application period not in existence on June 30, 2023”; and

WHEREAS, Chapter 2023-239, Laws of Florida, the 2023-24 General Appropriations Act, Appropriation 146 provides, in part, that “\$250,000 in nonrecurring state funds shall be used by the University of Florida Institute of Food and Agricultural Sciences (IFAS) to evaluate the effectiveness of the timing of seasonal fertilizer restrictions on urban landscapes toward achieving nutrient target objectives for waterbodies statewide”; and

WHEREAS, the science behind the many strong local fertilizer ordinances is voluminous, and every local government that has adopted a strong ordinance since 2007—and especially since 2009—has a public record of all of the science used to determine the viability of a strong ordinance in the respective watershed; and

WHEREAS, in 2009, Section 403.9337, Florida Statutes, mandated that each ordinance stronger than the FDEP Model ordinance be “science-based, and economically and technically feasible”; and since that date ordinances have been adopted and implemented covering sixteen counties and most of their respective municipalities; and

WHEREAS, the Florida Department of Agriculture and Consumer Services (FDACS) has never challenged the legality or the science behind any of the existing ordinances, and in December 2014, the FDACS updated the labeling requirements for do-it-yourself bags of turf fertilizer in the state to include the following language: “Check with your county or city government to determine if there are local regulations for fertilizer use”; and

WHEREAS, the fertilizer industry’s response has been positive and includes, for example, Scotts® in 2015 announcing a new summer-safe, no nitrogen-no phosphorus, turf product, evidencing how many fertilizer manufacturers can and have embraced these ordinances and provided products that are compliant with local regulations.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SANIBEL, FLORIDA:

SECTION 1. The City Council reaffirms its resolute support of, and steadfast commitment to, our current, strong, urban fertilizer ordinance that is more stringent than the state model baseline to manage stormwater better and help curb nutrient pollution in our waterways to protect our community’s natural resources, quality of life, property values, and local tourism economy.

SECTION 2. The City Clerk will transmit a copy of this Resolution to the Governor, the President of the Florida Senate, the Speaker of the Florida House of Representatives, the respective Chairs and membership of the Senate and House Appropriations Committees, the Secretary of the Florida Department of Environmental Protection, and the Commissioner of the Florida Department of Agriculture and Consumer Services.

SECTION 3. This Resolution shall take effect immediately upon its approval by the Sanibel City Council.

**PASSED IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF
SANIBEL, FLORIDA THIS 5th DAY OF DECEMBER 2023.**

Attest:

Scotty Lynn Kelly, City Clerk

Richard Johnson, Mayor

Approved as to form and legality:

John D. Agnew, City Attorney

Date filed with City Clerk: _____

Vote of Council Members:

Johnson	_____
Miller	_____
Crater	_____
Henshaw	_____
Smith	_____