

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 46 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "ENVIRONMENT," BY AMENDING ARTICLE II, ENTITLED "CARE AND MAINTENANCE OF TREES AND PLANTS," BY AMENDING DIVISION 2, "TREE PRESERVATION AND PROTECTION"; BY AMENDING SECTION 46-58, ENTITLED "TREE REMOVAL REQUIREMENTS, EXEMPTIONS AND PROHIBITED SPECIES," TO PROVIDE THAT AN EXISTING PALM TREE MAY BE REPLACED WITH A NEW PALM TREE AT THE SAME LOCATION WITH NO ADDITIONAL MITIGATION REQUIREMENT; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, under Chapter 46 of the City Code, the removal of a tree or palm on public or private property requires a tree removal permit; and

WHEREAS, currently, the replacement of an existing palm tree with a new palm tree at the same location may trigger an additional mitigation requirement under Chapter 46 of the City Code; and

WHEREAS, the Mayor and City Commission now desire to amend Chapter 46, to provide that an existing palm tree may be replaced with a new palm tree at the same location with no additional mitigation requirement.

NOW, THEREFORE, BE IT DULY ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AS FOLLOWS:

SECTION 1. Chapter 46, entitled "Environment," of the Code of the City of Miami Beach, Florida, is hereby amended as follows:

**CHAPTER 46
ENVIRONMENT**

* * *
ARTICLE II. CARE AND MAINTENANCE OF TREES AND PLANTS
* * *

DIVISION 2. TREE PRESERVATION AND PROTECTION
* * *

Sec. 46-58. Tree removal requirements, exemptions, and prohibited species.

It shall be unlawful for any person, unless otherwise permitted by the provisions of this division, to perform any tree or palm removal work, or effectively destroy any non-specimen tree, specimen tree, heritage tree, or prohibited species located within the boundaries of the city, on either public or private property, without first obtaining a tree work permit. Trees identified in landscape neighborhood overlays authorized pursuant to chapter 126 of the city Code, including trees defined as palms, shall be permitted and encouraged to remain. Palm trees, including, without limitation, palm trees identified in landscape neighborhood overlays, may be replaced with the same species tree at the same location with no additional mitigation requirement under section 46-61 of the city code.

- (1) Exemptions. The following shall be exempt from the provisions of this division, and do not require a tree work permit:
 - (a) Removal of non-specimen prohibited tree species.
 - (b) Removal of dead trees or trees destroyed by an act of God. This exemption does not apply to any trees or palms that have died as a result of violations of those provisions set forth herein.
 - (c) Any tree that, as the result of damage, disease or other cause, poses imminent danger to health, safety or property, and therefore requires immediate removal, may be removed without obtaining a tree work permit: provided that the owner of the property can establish that such hazardous condition(s) existed prior to the removal with documentation from an arborist certified by the International Society of Arboriculture, a Florida licensed landscape architect, or an ASCA Registered Consulting Arborist.
 - (d) Removal of trees within the yard area of an existing single-family residence in a single-family zoning district; provided the trees are non-specimen trees with a DBH of less than three inches.
 - (e) Removal of trees within licensed plant nurseries and botanical gardens; provided such trees were planted and are growing for the display, breeding, propagation, sale or intended sale to the general public in the ordinary course of business.
 - (f) Removing, trimming, cutting or altering of any mangrove tree or removal of any tree located upon land which is wetlands as defined in section 24-5 of the Code of Miami-Dade County, Florida, and are subject to the permitting requirements of article IV of chapter 24 of the Code of Miami-Dade County, Florida.
 - (g) Removal of plants which are defined as shrubs, hedges, vines, or groundcover.
 - (h) Removal of palms and clustering palms under 15 feet in overall height.
- (2) Removal of prohibited species. This division incorporates by reference the prohibited species list in chapter 24 of the Miami-Dade County Code as same may be amended from time to time. If present on a development or redevelopment site they shall be removed prior to development or redevelopment, and their sale, propagation planting, importation or transportation is prohibited. The only exceptions to this shall be if the particular site contains prohibited species trees that have a DBH greater than 12 inches, or have been designated as heritage trees, or are located in a designated historic district as so defined in section 46-56 herein provided a variance from the requirements of chapter 24 of the Code of Miami-Dade County Florida has been obtained. No fees shall be charged for their removal and replacement trees shall be required for the removal of any prohibited species in accordance with city Code sections 46-64(5) and 118-251.

The city manager may suspend the enforcement provisions of this division by determining that tree removal permitting requirements will hamper private or public work to restore order to the city after a declared state of emergency by the city or other governmental authority, including,

without limitation, declaring a state emergency, following an extreme weather event or other disaster.

Nothing in this division shall be construed to prevent the pruning or trimming of trees on private property where necessary for proper landscape maintenance and safety; provided that no more than 25 percent of the crown or foliage is removed annually and that the pruning performed does not effectively destroy the tree.

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SECTION 2. REPEALER.

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith be and the same are hereby repealed.

SECTION 3. CODIFICATION.

It is the intention of the City Commission, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach as amended; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 4. SEVERABILITY.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED AND ADOPTED this ____ day of _____, 2023.

ATTEST:


Dan Gelber, Mayor

Rafael E. Granado, City Clerk

First Reading:
Second Reading:

(Sponsored by Vice-Mayor Steven Meiner)

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney *NK* 1-25-23
Date