


## COMMISSION MEMORANDUM

**TO:** Mayor Dan Gelber and Members of the City Commission

**FROM:** Rafael A. Paz, City Attorney 

**DATE:** February 1, 2023

**SUBJECT:** **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.**

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Pursuant to the request of Vice-Mayor Steven Meiner, the above Ordinance has been placed on the February 1, 2023 City Commission meeting agenda for First Reading.

Under Chapter 46 of the City Code, the removal of a tree or palm on public or private property requires a tree removal permit. 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.

The Ordinance amends the landscape mitigation requirements in Section 46-58 of the City Code to provide that an existing palm tree may be replaced with a new palm tree at the same location (i.e. "a palm for a palm") with no additional mitigation requirement. The ordinance was discussed at the January 11, 2023 Public Safety and Neighborhood Quality of Life Committee, which unanimously recommended the proposed ordinance.

In order to implement the amendments in this Ordinance, an amendment to Chapter 126 of the Land Development Regulations ("LDRs") will also be required. Specifically, the provision in Sec. 126-6(a)(1) providing that "[p]alms shall not count towards the required number of street trees." Accordingly, a companion item has been placed on the February 1, 2023 agenda as a referral to the Land Use and Sustainability Committee and Planning Board to consider the proposed amendment. Second Reading of both Ordinances would need to occur at the same City Commission meeting in order to avoid creating a conflict between the Code and the LDRs.

Given that the City's landscape requirements must be consistent with the landscape requirements in the Miami-Dade County Code, the City Attorney's Office and the Administration will identify, between first and second reading, whether any modifications to the proposed ordinance may need to be made, to avoid any conflicts between these Ordinances and the County Code.