

COMPREHENSIVE PLAN – PERIL OF FLOOD

ORDINANCE NO. 2016-4027

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE COMPREHENSIVE PLAN PURSUANT TO THE PROCEDURES IN SECTION 163.3184(3), FLORIDA STATUTES, BY MODIFYING CHAPTER 1, FUTURE LAND USE ELEMENT, TO ENCOURAGE THE USE OF LANDSCAPING TECHNIQUES THAT ENHANCE STORMWATER MANAGEMENT AND TO MODIFY THE LEVEL OF SERVICE FOR STORM SEWER CAPACITY; CHAPTER 5, INFRASTRUCTURE ELEMENT, TO REQUIRE THAT THE LAND DEVELOPMENT REGULATIONS INCLUDE A FREEBOARD REQUIREMENT FOR NEW CONSTRUCTION, TO MODIFY THE LEVEL OF SERVICE FOR DRAINAGE FACILITIES DESIGN STORM STANDARD, AND TO INCORPORATE THE USE OF STORMWATER STORAGE AND INFILTRATION IN INFRASTRUCTURE REPLACEMENT ACTIVITIES; CHAPTER 6, CONSERVATION/ COASTAL ZONE MANAGEMENT ELEMENT TO ENCOURAGE THE USE OF HIGHLY WATER-ABSORBENT NATIVE PLANTS AND TO DESIGNATE THE CITY OF MIAMI BEACH AS AN ADAPTATION ACTION AREA (AAA) PURSUANT TO SECTION 163.3177(6)(g)(10), FLORIDA STATUTES; CHAPTER 8, INTERGOVERNMENTAL COORDINATION ELEMENT, TO REQUIRE COORDINATION BETWEEN AGENCIES ADDRESSING ISSUES RELATED TO SEA LEVEL RISE AND CLIMATE CHANGE; PROVIDING FOR INCLUSION IN THE COMPREHENSIVE PLAN; TRANSMITTAL; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, In 2011, the Florida Legislature passed the Community Planning Act, allowing local governments the option of planning for coastal hazards and the potential impacts of sea level rise within the Comprehensive Plan through the designation of Adaptation Action Areas; and

WHEREAS, On July 1, 2014, the City hired AECOM as a Flood Mitigation Consultant, to perform an analysis of City regulations and practices that can be improved or established in order to mitigate the impacts of anticipated sea level rise; and

WHEREAS, In 2015 the Florida Legislature adopted Senate Bill 1094, "Peril of Flood," requiring the inclusion of development and redevelopment strategies that reduce flood risks in coastal areas which results from high-tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea level rise within Comprehensive Plan Coastal Management elements; and

WHEREAS, On March 15, 2016 the City of Miami Beach Mayor's Blue Ribbon Panel on Seal Level Rise, the Panel endorsed the proposed amendments to the City's Comprehensive Plan, as recommended by AECOM; and

WHEREAS, The City of Miami Beach Planning Board, which serves as the local planning agency, transmitted the amendments to the City Commission with a favorable recommendation; and

WHEREAS, the City Commission held a duly noticed public hearing, at which time it voted to transmit the text amendments for review by state, regional and local agencies as required by law; and

WHEREAS, the City Commission after careful consideration of this matter deems it advisable and in the best interest of the general welfare of the City of Miami Beach and its inhabitants to amend the 2025 Comprehensive Plan as hereinafter set forth; and

WHEREAS, the amendment set forth below is necessary to accomplish all of the above objectives.

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

SECTION 1. The following amendment to the City's 2025 Comprehensive Plan Future Land Use Element is hereby adopted:

FUTURE LAND USE ELEMENT

* * *

Policy 3.6

Maximize unpaved landscape to allow for more stormwater infiltration. Encourage planting of vegetation that is highly water absorbent, can withstand the marine environment, and the impacts of tropical storm winds. Encourage development measures that include innovative climate adaption and mitigation designs with creative co-benefits where possible, through the Land Development Regulations and regulations related to the "Care and Maintenance of Trees and Plants" within the City Code of Ordinances.

* * *

Policy 6.2

Land Development Regulations pertaining to concurrency management shall be amended to reflect Ch. ~~9J-5.0055~~ FAC 163.3180, Florida Statutes and this policy. No development permit shall be issued unless the public facilities necessitated by the project (in order to meet level of service standards specified in the Policies of the Transportation, Recreation, Public Schools and Infrastructure Elements, and the Water Supply Plan) will be in place concurrent with the impacts of the development or the permit is conditional to assure that they will be in place, but no later than the issuance of a certificate of occupancy or its functional equivalent. The requirement that no development permit shall be issued unless public facilities necessitated by the project are in place concurrent with the impacts of development shall be effective immediately:

Acceptable Level of Service Standards for public facilities in the City of Miami Beach are:

* * *

d. Storm Sewer Capacity – One-in-five ten-year storm event.

SECTION 2. The following amendment to the City's 2025 Comprehensive Plan Infrastructure Element is hereby adopted:

INFRASTRUCTURE: SANITARY SEWER, SOLID WASTE, DRAINAGE AND POTABLE WATER

* * *

Policy 2.4

Incorporate stormwater storage and infiltration into all infrastructure replacement activities.

* * *

Policy 4.1

Continue site plan review for new construction with the requirement that the minimum first floor elevation for living quarters habitable space in residential and commercial buildings be at least at the minimum City of Miami Beach Freeboard, as adopted in the Code of the City of Miami Beach, above the minimum FEMA requirement, to allow for maximum protection during flood conditions and from sea level rise.

* * *

Policy 5.1

The following City-wide Level of Service Standards shall be used as the basis for determining the availability of facility capacity for residential uses; the systems shall be able to provide/accommodate at least the minimums specified:

* * *

Drainage Facilities Design Storm Standard per 25-year frequency, 24-hour duration; see rainfall intensity curve zone 10, DOT Drainage Manual Storm Water Master Plan as updated from time to time.

SECTION 3. The following amendment to the City's 2025 Comprehensive Plan Conservation/Coastal Zone Management Element is hereby adopted:

CONSERVATION/COASTAL ZONE MANAGEMENT

* * *

Policy 2.12

Salt tolerant landscaping and highly water-absorbent, native or Florida friendly plants shall continue to be given preference over ~~traditional~~ other planting materials in the plant materials list used in the administration of the landscape section of the Land Development Regulations and the design review process.

* * *

Objective 13:

Increase the City's resiliency to the impacts of climate change and rising sea levels by developing and implementing adaptation strategies and measures in order to protect human life, natural systems and resources and adapt public infrastructure, services, and public and private property.

Policy 13.1:

Based on evolving rising seas data and associated vulnerabilities, to allow for flexible adjustments, preserve future strategic adaptation implementation options to maintain maximum resiliency in response to new risks and vulnerabilities. The City will take advantage of new emerging data and technological opportunities. The City's basis for measuring sea level rise shall be as per the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact.

Policy 13.2:

The City will identify public investments and infrastructure at risk to sea level rise and other climate related impacts. The City will assess the vulnerability to public facilities and services, including but not limited to water and wastewater facilities, stormwater systems, roads, bridges, governmental buildings, hospitals, transit infrastructure and other assets.

Evaluation Measure: Collaborating with regional partners, City shall identify public investments, infrastructure and assets at risk from rising sea levels by 2018. Thereafter, this assessment will be performed every five (5) years.

Policy 13.3:

As per Section 163.3164(1) and Section 163.3177(6)(g)(10), Florida Statutes, an Adaptation Action Area (AAA) is an optional designation within the coastal management element of a local government's comprehensive plan which identifies one or more areas that experience coastal flooding due to extreme high tides and storm surge, and that are vulnerable to the related impacts of rising sea levels for the purpose of prioritizing funding for infrastructure and adaptation planning.

The entire City is hereby designated an AAA, as all areas meet considerations for AAA designation, which include the following:

- a. Areas which experience tidal flooding, storm surge, or both;
- b. Areas which have an hydrological connection to coastal waters;
- c. Locations which are within areas designated as evacuation zones for storm surge; and
- d. Other areas impacted by stormwater/flood control issues.

Policy 13.4:

The City will develop and implement adaptation strategies for areas vulnerable to coastal flooding, tidal events, storm surge, flash floods, stormwater runoff, salt water intrusion and other impacts related to climate change or exacerbated by sea level rise, with the intent to increase the community's comprehensive adaptability and resiliency capacities.

The City will include areas, which experience tidal flooding, storm surge, or both as the first priority for the development and implementation of adaption strategies. Other areas will be included as the second priority for the development and implementation of adaptation strategies.

Policy 13.5:

Adaptation strategies may apply to the following:

- a. Public infrastructure planning, siting, construction, replacement, operation and maintenance;
- b. Emergency management;
- c. Stormwater management;
- d. Land development regulations;
- e. Building codes;
- f. Comprehensive planning; and
- g. Other functions.

Policy 13.6:

AAAs adaptation strategy options include:

- a. Protection: Strategies that involve "hard" and "soft" structurally defensive measures to mitigate impacts of rising seas in order to decrease vulnerability while allowing structures and infrastructure to remain unaltered. Two examples are shoreline armoring and beach renourishment. Protection strategies may be targeted for areas of a community that are location-dependent and cannot be

significantly altered or relocated, such as areas of historical significance, or water-dependent uses.

- b. Accommodation: Strategies that do not act as a barrier, but rather alter the design through measures such as elevation or stormwater improvements, to allow the structure of infrastructure system to stay intact. Rather than preventing flooding or inundation, these strategies aim to reduce potential risks.
- c. Management Strategies: Strategies that involve the actual removal of existing development, their possible relocation to other areas, and/or prevention of further development in high-risk areas.
- d. Avoidance: Strategies that involve ensuring development does not take place in areas subject to coastal hazards associated with sea level rise or where the risk is low at present but will increase over time.
- e. Other options.

Policy 13.7:

The City shall pursue funding sources for the implementation of AAA associated adaptation strategies including the following:

- a. Federal and State grants and technical expertise assistance (in-kind)
- b. Local Stormwater Utility Fees and CIP (Capital Improvement Plan) prioritization
- c. Public/Private Partnerships
- d. Other sources

Policy 13.8:

The City shall integrate AAAs into existing and future City processes and city-wide plans and documents which may include:

- a. Strategic Plan;
- b. Sustainability Plan;
- c. Resiliency Plan;
- d. Stormwater Master Plan;
- e. Emergency Management Plan;
- f. Land Development Regulations;
- g. Capital Improvement Plan;
- h. Local Mitigation Strategy; and
- i. Agreements with Public or Private Utility and Infrastructure Providers;
- j. Agreements with Public Health Providers;
- k. Interlocal Agreements with Other Government Agencies; and
- l. Other processes, plans and documents.

Policy 13.9:

The City shall align and be consistent with, to the extent possible, relevant and current national, state, and regional adaptation strategy documents such as the Miami-Dade

County GreenPrint, Southeast Florida Regional Climate Action Plan, and The President's Climate Action Plan as well as other regional strategic plans, disaster mitigation plans, water management plans, transportation/transit plans, and climate change plans.

Policy 13.10:

The City shall participate in, when appropriate, coordinated governmental, non-governmental and other appropriate agencies' proposed application requests for funding adaptation implementation projects.

Policy 13.11:

The City shall collaborate and coordinate with appropriate local, regional, state, and national governmental agencies, to the extent possible, toward the implementation of AAA adaptation strategies and to identify risks, vulnerabilities and opportunities associated with coastal hazards and the impacts from sea level rise.

SECTION 4. The following amendment to the City's 2025 Comprehensive Plan Intergovernmental Coordination Element is hereby adopted:

INTERGOVERNMENTAL COORDINATION ELEMENT

* * *

Policy 1.10

The City will collaborate and coordinate with appropriate local, regional, state, and national governmental agencies, to the extent possible, toward the implementation of Adaptation Action Areas adaptation strategies and to identify risks, vulnerabilities and opportunities associated with coastal hazards and the impacts from sea level rise and participate in, when appropriate, coordinated governmental, non-governmental and other appropriate agencies' proposed application requests for funding adaptation implementation projects.

SECTION 5. REPEALER.

All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.

SECTION 6. SEVERABILITY.

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

SECTION 7. CODIFICATION.

It is the intention of the City Commission that this Ordinance be entered into the Comprehensive Plan, and it is hereby ordained 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. The Exhibits to this Ordinance shall not be codified, but shall be kept on file with this Ordinance in the City Clerk's Office.

SECTION 8. TRANSMITTAL.

The Planning Director is hereby directed to transmit this ordinance to the appropriate state, regional and county agencies as required by applicable law.

SECTION 9. EFFECTIVE DATE.

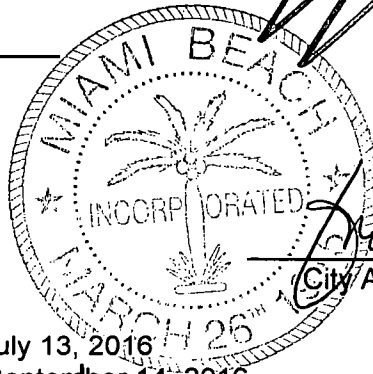
This ordinance shall take effect 31 days after the state land planning agency notifies the City that the plan amendment package is complete pursuant to Section 163.3184(3), Florida Statutes.

PASSED and ADOPTED this 14 day of September 2016.

MAYOR

ATTEST:

ZJ 9/22/16
CITY CLERK



APPROVED AS TO FORM
AND LANGUAGE
AND FOR EXECUTION

[Signature] for 9/16/16
City Attorney Date

First Reading/Transmittal: July 13, 2016
Second Reading/Adoption: September 14, 2016

Verified By: [Signature]
Thomas R. Mooney, AICP
Planning Director

Underline = new language
~~Strikethrough~~ = deleted language

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission
FROM: Jimmy L. Morales, City Manager
DATE: September 14, 2016

10:25 a.m. Second Reading Public Hearing

SUBJECT: COMPREHENSIVE PLAN – PERIL OF FLOOD:
AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE COMPREHENSIVE PLAN PURSUANT TO THE PROCEDURES IN SECTION 163.3184(3), FLORIDA STATUTES, BY MODIFYING CHAPTER 1, FUTURE LAND USE ELEMENT, TO ENCOURAGE THE USE OF LANDSCAPING TECHNIQUES THAT ENHANCE STORMWATER MANAGEMENT AND TO MODIFY THE LEVEL OF SERVICE FOR STORM SEWER CAPACITY; CHAPTER 5, INFRASTRUCTURE ELEMENT, TO REQUIRE THAT THE LAND DEVELOPMENT REGULATIONS INCLUDE A FREEBOARD REQUIREMENT FOR NEW CONSTRUCTION, TO MODIFY THE LEVEL OF SERVICE FOR DRAINAGE FACILITIES DESIGN STORM STANDARD, AND TO INCORPORATE THE USE OF STORMWATER STORAGE AND INFILTRATION IN INFRASTRUCTURE REPLACEMENT ACTIVITIES; CHAPTER 6, CONSERVATION/COASTAL ZONE MANAGEMENT ELEMENT TO ENCOURAGE THE USE OF HIGHLY WATER-ABSORBENT NATIVE PLANTS AND TO DESIGNATE THE CITY OF MIAMI BEACH AS AN ADAPTATION ACTION AREA (AAA) PURSUANT TO SECTION 163.3177(6)(G)(10), FLORIDA STATUTES; CHAPTER 8, INTERGOVERNMENTAL COORDINATION ELEMENT, TO REQUIRE COORDINATION BETWEEN AGENCIES ADDRESSING ISSUES RELATED TO SEA LEVEL RISE AND CLIMATE CHANGE; PROVIDING FOR INCLUSION IN THE COMPREHENSIVE PLAN; TRANSMITTAL; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

RECOMMENDATION

The Administration recommends that the City Commission adopt the Ordinance.

ANALYSIS

On July 1, 2014, the City hired AECOM as a Flood Mitigation Consultant, to perform an analysis of City regulations and practices that can be improved or established in order to mitigate the impacts of anticipated sea level rise.

On April 24, 2015, the Florida Legislature approved Senate Bill 1094, entitled "Peril of Flood," requiring the inclusion of development and redevelopment strategies that reduce flood risks in coastal areas which result from high-tide events, storm surge, flash floods, stormwater runoff,

and the related impacts of sea level rise within Comprehensive Plan Coastal Management elements.

At the March 15, 2016 meeting of the Mayors Blue Ribbon Panel on Seal Level Rise, the Panel endorsed the proposed amendments to the City's Comprehensive Plan, as recommended by AECOM. On April 13, 2016, the City Commission referred to the proposed Comprehensive Plan amendment to the Land Use and Development Committee (Item C4L). The item was simultaneously referred to the Planning Board. Commissioner Malakoff is sponsoring the proposed amendment.

On April 20, 2016, the Land Use and Development Committee discussed the item and continued it to May 18, 2016. On May 18, 2016, the Land Use and Development Committee recommended that the Planning Board transmit the proposed amendment to the City Commission with a favorable recommendation.

Since mid-2014, the administration has been working with AECOM to prepare climate adaptation plans and strategies as a result of sea level rise. A major component of this analysis has been to review the City's 2025 Comprehensive Plan and to propose amendments that will reduce the City's risks related to sea level rise. AECOM is recommending several amendments to improve storm sewer and drainage levels of service, including the use of landscaping techniques to enhance storm water management and incorporating minimum freeboard requirements into the Land Development Regulations.

In 2015, the Florida Legislature adopted Senate Bill 1094, entitled "Peril of Flood", which requires the Coastal Management elements of local government Comprehensive Plans to include regulations related to the mitigation and reduction of flood risks in coastal areas. The requirements of the Bill include the following:

- 1. Include development and redevelopment principles, strategies, and engineering solutions that reduce the flood risk in coastal areas which results from high-tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea-level rise.*
- 2. Encourage the use of best practices development and redevelopment principles, strategies, and engineering solutions that will result in the removal of coastal real property from flood zone designations established by the Federal Emergency Management Agency.*
- 3. Identify site development techniques and best practices that may reduce losses due to flooding and claims made under flood insurance policies issued in this state.*

Additionally, in 2011 the Florida Legislature passed the Community Planning Act (CPA), which amended Section 163.3177, Florida Statutes, which allows local governments the option of planning for coastal hazards and the potential impacts of sea level rise within the Comprehensive Plan. This provided local governments with the option of designating Adaptation Action Areas (AAA). The designation is for areas that experience coastal flooding and that are vulnerable to the related impacts of rising sea levels, with the purpose of prioritizing funding for infrastructure and adaptation planning.

Local governments that adopt an adaptation action area are able to incorporate policies within the coastal management element of their comprehensive plan to improve resilience to coastal flooding. Criteria for AAA designation includes: areas below, at, or near mean higher high water; areas which have a hydrological connection to coastal waters; or areas designated as evacuation zones for storm surge. Since the entire City meets designation criteria, it is recommended that the entire City be designated an AAA.

In order to improve the City's ability to mitigate the impacts of sea level rise and comply with Senate Bill 1094, the proposed amendment would affect the following elements of the Miami Beach 2025 Comprehensive Plan:

Future Land Use Element

- o Amend Policy 3.6 to encourage the use of landscaping techniques that enhance stormwater management

- o Amend Policy 6.2 to modify the level of service for storm sewer capacity to be consistent with the City's Storm Water Master Plan.

Infrastructure Element

- o Amend Policy 2.4 to require the incorporation of stormwater storage and infiltration into infrastructure replacement activities.

- o Amend Policy 4.1 to require that the Land Development Regulations include a freeboard requirement that requires the raising of ground floors in new construction to reduce losses due to flooding.

- o Amend Policy 5.1 to modify the level of service for the drainage facilities design storm standard.

Conservation/Coastal Zone Management Element

- o Amend Policy 2.12 to encourage the use of highly water-absorbent native and Florida friendly plants.

- o Establish Objective 13 to designate the City of Miami Beach as an AAA pursuant to section 163.3177(6)(g)(10), Florida Statutes and establish resiliency strategies.

Intergovernmental Coordination Element

- o Establish Policy 1.10 to require collaboration and coordination with local, regional, state, and national government agencies for the implementation of AAA strategy options.

COMPREHENSIVE PLANNING PROCESS

This application is for text amendment to the Compressive Plan. Under Section 163.3184(2), F.S., this amendment will follow the expedited state review process for adoption of comprehensive plan amendments. In this process the Planning Board serves in its capacity of the Local Planning Agency (LPA), when providing its recommendation to the City Commission. It is anticipated that the plan amendment would follow the timeline below:



Date	Process Step
4/13/2016	CC Referral to LUDC and Planning Board
5/18/2016	LUDC Hearing
6/28/2016	Planning Board (LPA) Hearing
7/13/2016	CC Transmittal Hearing
7/14/2016	Transmit to State
7/22/2016	Notice from State of Complete Transmittal
8/19/2016	Review Agency Comments Due
9/14/2016	CC Adoption Hearing
9/15/2016	Submit Adoption Package to Review Agencies
9/20/2016	Notice from State of Complete Submittal
10/21/2016	Appeal Period Ends

PLANNING BOARD REVIEW

On June 28, 2016, the Planning Board (by a 4-0 vote), which serves as the City's Local Planning Agency pursuant to Chapter 163, Florida Statutes, transmitted the proposed ordinance amendment to the City Commission with a favorable recommendation.

UPDATE/SUMMARY

The subject ordinance was approved at First Reading on July 13, 2016. The Administration transmitted the amendment to the State Land Planning Agency and required review agencies pursuant to the Section 163.3184(2), F.S. Comments from the review agencies are due by August 19, 2016. As of the writing of this memorandum, the following comments have been provided by the review agencies:

- *Florida Department of Education* – On July 25, 2016, the Department found that the amendment did not appear to adversely impact public education facilities and provided no comment.
- *South Florida Regional Council* – On August 8, 2016, the Council found that the proposed amendment was generally consistent with the Strategic Regional Policy Plan for South Florida and provided no additional comment.
- *South Florida Water Management District* – On August 17, 2016, the District found that there appears to be no regionally significant water resource issues, as a result of the amendment.
- *Florida Department of Economic Opportunity* – On August 19, 2016, the Department, which serves as the State Land Planning Agency, identified no comments related to important state resources and facilities that would be adversely impacted by the amendment. However, the Department offered technical assistance suggestions which would help strengthen the Comprehensive Plan and help ensure consistency with Chapter 163. The comments generally include:

1. *Future Land Use Element Policy 3.6 – direct where such encouragement would be applied (e.g. local development review processes).*

2. *Conservation/Coastal Zone Management Element Policy 13.1 – consider periodically revisiting the City’s basis for measuring sea level rise, specifying the appropriate period, or timeframe within this policy.*

3. *Conservation/Coastal Zone Management Element Policy 13.4 – consider incorporating some means of prioritization for different areas within the Adaptation Action Area.*

4. *Conservation/Coastal Zone Management Element Policy 13.5 – consider adopting strategies that apply to public and private community infrastructure that may not be within the City’s management control (e.g. sanitary sewage facilities).*

In response to the technical assistance suggestions that were provided by the Florida Department of Economic Opportunity, slight revisions have been included in the proposed Amendment. However, in regards to comment 2, it is recommended that the City utilize the unified sea level rise measurements provide by the South Florida Regional Climate Change Compact to ensure consistency with the rest of the region. Additionally, the Compact may revise projections as new technology and information becomes available, which may not occur on a fixed schedule; therefore it is recommended that a timeframe not be incorporated in order to allow the City to utilize the latest information as it becomes available.

CONCLUSION

The Administration recommends that the City Commission adopt the Ordinance.

FINANCIAL INFORMATION

In accordance with Charter Section 5.02, which requires that the “City of Miami Beach shall consider the long term economic impact (at least 5 years) of proposed legislative actions,” this shall confirm that the City Administration City Administration evaluated the long term economic impact (at least 5 years) of this proposed legislative action. The proposed Ordinance is not expected to have a negative fiscal impact upon the City.

Legislative Tracking

Planning

Sponsor

Commissioner Joy Malakoff

ATTACHMENTS:

Description

- 2nd Reading Ordinance - Form Approved