

# MIAMI BEACH

OFFICE OF THE CITY ATTORNEY

RAFAEL PAZ, CITY ATTORNEY

## COMMISSION MEMORANDUM

**TO:** Mayor Dan Gelber and Members of the City Commission  
Alina T. Hudak, City Manager

**FIRST READING**

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



**DATE:** July 20, 2022

**SUBJECT: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 82 OF THE MIAMI BEACH CITY CODE, ENTITLED "PUBLIC PROPERTY," BY AMENDING ARTICLE 1, ENTITLED "IN GENERAL," BY CREATING SECTION 82-9 THEREOF, ENTITLED "SMOKING IN PARKS AND ON THE BEACHES IS PROHIBITED," TO PROHIBIT SMOKING IN THE CITY'S PARKS AND ON THE CITY'S PUBLIC BEACHES, WITH THE EXCEPTION OF UNFILTERED CIGARS; AND, PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

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The proposed Ordinance has been prepared at the request of Commissioner Alex J. Fernandez, and is submitted for consideration on for first reading at the July 20, 2022 City Commission meeting.

On June 17, 2022, Governor Ron DeSantis signed a House Bill 105 ("HB 105"), which amended the Florida Clean Indoor Air Act (FCIAA) to allow cities and counties to restrict smoking at beaches and City and County-owned public parks, subject to certain exceptions. Specifically, HB 105 now authorizes the City to restrict smoking within any public beaches and City-owned or County-owned public parks within the City, unless such restriction conflicts with a County ordinance.

Cigarette butts are by far the most common item polluting our parks, beaches and waterways. According to research from Ocean Conservancy, cigarette butts are a top item left behind on beaches for the past 31 during the International Coastal Cleanup. Small and notoriously difficult to clean up, cigarette butts contain plastic filters, toxic chemicals and microplastics that adversely affect the environment.

Prohibiting smoking on the City's public beaches and parks is in the best interest of the City, its residents and visitors, and the environment. The proposed Ordinance seeks to prohibit smoking in public parks or on public beaches with the exception of unfiltered cigars, as permitted by the new Florida law.

RAP/FA/ag