

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 82 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "PUBLIC PROPERTY," BY AMENDING ARTICLE VI, ENTITLED "NAMING OF PUBLIC FACILITIES AND ESTABLISHMENT OF MONUMENTS OR MEMORIALS," BY AMENDING SECTION 82-501 THEREOF, ENTITLED "GENERALLY," TO PROVIDE FOR CERTAIN EXEMPTIONS FROM THE REQUIREMENTS OF THE ORDINANCE; AND BY AMENDING SECTION 82-503 THEREOF, ENTITLED "NAMING OF PUBLIC FACILITIES; CO-NAMING AND RE-NAMING OF STREETS," BY AMENDING SUBSECTION (A) THEREOF, TO EXEMPT THE NAMING OR RE-NAMING OF CERTAIN SPECIFIED CITY-OWNED PUBLIC FACILITIES FROM THE VOTER REFERENDUM REQUIREMENT OF SECTION 82-503(6) OF THE CITY CODE, PROVIDED THAT SUCH NAMING OR RE-NAMING IS FOR A LIMITED TERM OF YEARS; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the City's ordinance for the naming of public facilities, as set forth in Section 82-503 of the City Code (the "Naming Ordinance"), includes a robust public input process for the review and approval of the naming or re-naming of the exterior of most City-owned public facilities, including parks; and

WHEREAS, in addition to a public hearing requirement, review by the Neighborhoods/Community Affairs Committee, and approval by a 5/7ths vote of the City Commission, the Naming Ordinance currently requires voter referendum approval for the exterior naming or re-naming of most City-owned public facilities and parks; and

WHEREAS, although the City's Naming Ordinance contemplated the *permanent* naming of public facilities, in perpetuity, many naming rights opportunities, particularly as part of sponsorship deals for performance or entertainment venues, are increasingly common for a limited term of years, and such sponsorships may yield substantial additional revenues for the owner of the public facility; and

WHEREAS, the Administration anticipates that a consultant will be engaged to assist the City in identifying sponsorship opportunities, including naming rights, by January or February, 2020; and

WHEREAS, the voter referendum requirement in the City's Naming Ordinance will likely discourage many prospective naming rights sponsors, who may not consider it worthwhile to proceed with a public referendum process for a naming rights opportunity for a limited term of years; and

WHEREAS, accordingly, the Mayor and City Commission desire to amend the City's Naming Ordinance to exempt certain specified City facilities from the referendum requirements of the City's Naming Ordinance, but only where the proposed naming or re-naming is for a limited term of twenty (20) years or less, including option periods.

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

SECTION 1. That section 82-501 through 82-503 of Article VI of Chapter 82 of the Code of the City of Miami Beach is hereby amended as follows:

**CHAPTER 82
PUBLIC PROPERTY**

* * *

**ARTICLE VI. NAMING OF PUBLIC FACILITIES AND ESTABLISHMENT OF
MONUMENTS OR MEMORIALS**

* * *

Sec. 82-501. Generally

- (a) No public facility located in or owned by the city shall be named except in accordance with the procedures set forth in this article.

- (b) No monument or memorial shall be established within the city except in accordance with the procedures set forth in this article.
- (c) ~~Effective upon adoption of this Ordinance No. 2014-3875, n~~No street located in the city shall be hereafter named, renamed, or co-named, except as provided in Section 82-503(c), hereof. ~~The Bass Museum of Art; the city-owned building, located at 2200 Liberty Avenue, Miami Beach, Florida (the Miami City Ballet Building); and the city-owned cultural facility referred to as the "Jackie Gleason Theater of the Performing Arts," located at 1700 Washington Avenue, Miami Beach, Florida, shall be exempt from the provisions of this article, as hereinafter provided: all or any portion(s) of the city-owned property comprising the public cultural facility known as the "Altos Del Mar Sculpture Park," located within a portion of Altos Del Mar Park, on Collins Avenue between 76th and 77th Street, Miami Beach, Florida (the ADMSP Sculpture Park) and all or any portion(s) of the city-owned property comprising the Miami Beach Botanical Garden, located at 2000 Convention Center Drive; and the ground level, exterior portions of those certain leased premises as described and identified in the lease agreement between the city and the New World Symphony (NWS), dated January 15, 2004 (the NWS Lease), and including the ground level, exterior portions of the NWS building and other tenant improvements (as said term is also defined in the NWS Lease) and the city-owned park bounded by Washington Avenue, 17th Street, Lincoln Lane, and Pennsylvania Avenue, the city-owned garage (currently referred to as the Pennsylvania Avenue Garage), and any and all other city-owned buildings, structures, furnishings, fixtures, improvements, streets, sidewalks, and/or rights-of-way in connection with the NWS project, shall be exempt from the provisions of this article.~~
- (d) Exemptions: Subject to the conditions set forth herein, the following city-owned properties shall be exempt from the provisions of this article: The Bass Museum, 2100 Collins Avenue; Miami City Ballet, 2200 Liberty Avenue; The Fillmore Miami Beach at the Jackie Gleason Theater, 1700 Washington Avenue; Miami Beach Botanical Garden, 2000 Convention Center Drive; New World Symphony (NWS) complex, including, without limitation, the NWS building located at 500 17th Street, Soundscape Park, 400 17th Street, and the Pennsylvania Avenue Garage, 1661 Pennsylvania Avenue; and any city-owned property that is subject to a lease having a term, including option periods, of at least fifty (50) years or more, including, without limitation, the Miami Beach Marina and the Miami Beach Convention Center headquarter hotel, provided, however, that the exemption for any such city-owned property shall automatically terminate upon the earlier of the expiration or termination of the lease.
- (1) The Miami City Ballet Building shall only be exempt for so long as: (i) said building is occupied, operated and maintained by Miami City Ballet, Inc., a not-for-profit corporation; (ii) the building is used as the principal headquarters, administrative offices, and studio and teaching facilities of the Miami City Ballet; and (iii) Miami City Ballet, Inc., remains in good standing and free from defaults under ~~that certain its then-existing~~ lease agreement

for the Miami City Ballet Building between the city, as landlord, and Miami City Ballet, Inc., as tenant (the Miami City Ballet lease). The exemption for the Miami City Ballet building shall automatically terminate upon the earlier of the expiration or other termination of the lease between the Miami City Ballet, Inc. and the city.

~~The ADMSP Sculpture Park shall only be exempt from the provisions of this article for so long as:~~

- ~~(1) The Sculpture Park is occupied, operated and maintained by Altos Del Mar Sculpture Park, Inc., a not-for-profit corporation;~~
- ~~(2) The Sculpture Park remains free and open to the general public; and~~
- ~~(3) Altos Del Mar Sculpture Park, Inc., remains in good standing and free from defaults under that certain management agreement between the city and Altos Del Mar Sculpture Park, Inc., dated June 3, 2009.~~

- (2) The NWS complex leased premises shall only be exempt from the provisions of this article for so long as: (i) All of the NWS leased premises (including the NWS building and all of the tenant improvements) remain leased, are occupied, operated, and maintained by New World Symphony Inc., a not-for-profit corporation; (ii) the NWS building is continuously used as the principal headquarters, administrative offices, and performance facilities of the NWS, and the other tenant improvements are continuously used for their original purpose(s) under the NWS's then-existing lease with the city; and (iii) NWS remains in good standing and free from defaults under the NWS lease, the development agreement between the city and NWS, dated January 5, 2004 (the NWS development agreement), and any other agreements between the city and NWS, whether in existence as of the effective date of this article, or as may be subsequently entered into. The exemption for the NWS complex shall automatically terminate upon the earlier of the expiration or other termination of the lease between the New World Symphony, Inc. and the city.; and

- (3) Notwithstanding the exemption provided herein for the NWS complex, any name(s) proposed for all or any portion of the NWS complex leased premises shall be subject to the following conditions:

- (i) All names shall be subject to the prior written consent of the city, which shall not be unreasonably withheld, conditioned or delayed;
- (ii) No name shall be permitted which includes the name of any company selling the following types of products: guns, tobacco, or sexual products;
- (iii) There shall be no naming after an individual who has been convicted of a felony;

- (iv) No name shall be permitted to remain beyond term of the NWS lease agreement, unless expressly approved by city; and
 - (v) Notwithstanding conditions (i) through (iv) above, NWS shall be entitled to keep naming rights revenues; provided it dedicates and utilizes such revenues exclusively for the maintenance, management, and/or operation of the NWS building and/or tenant improvements;
- (4) The Miami Beach Botanical Garden shall only be exempt from the provisions of this article for as long as: (i) the Miami Beach Botanical Garden is occupied, operated and maintained by the Miami Beach Garden Conservancy, a not-for-profit corporation; (ii) the Miami Beach Botanical Garden remains free and open to the general public; and (iii) the Miami Beach Garden Conservancy remains in good standing and free from defaults under that certain its then-existing management agreement between the city and the Miami Beach Garden Conservancy, dated July 1, 2007. The exemption for the Miami Beach Garden Conservancy shall automatically terminate upon the earlier of the expiration or termination of the then-existing aforestated management agreement between the city and the Miami Beach Garden Conservancy.
- ~~(5) The exemption for the Miami City Ballet building and for the NWS leased premises complex shall automatically terminate upon the earlier of the expiration or other termination of, respectively, the Miami City Ballet lease and the NWS lease. The exemption for the ADMSP Sculpture Park shall automatically terminate upon the earlier of the expiration or other termination of the aforestated management agreement. The exemption for the Miami Beach Garden Conservancy shall automatically terminate upon the earlier of the expiration or termination of the then-existing aforestated management agreement.~~

Sec. 82-502. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Committee means the community affairs committee created by the city commission on March 18, 1998, and as merged with the neighborhood committee on November 25, 2003, pursuant to Resolution No. 2003-25446, or any other such committee designated by the city commission to review and recommend names for public facilities and the co-naming of streets, and approve the establishment of monuments or memorials to be located within or owned by the city.

Memorial means a site, art work or structure created to preserve the memory of a significant event(s) or person(s).

Monument means a bust, sculpture, or similar structure, erected in honor of a significant event(s) or person(s).

Public facility means any public building or park owned by the city.

Street means that area of a public right-of-way improved, designed, and ordinarily used for vehicular traffic and/or parking including, without limitation, avenues, roads, drives, lanes, boulevards, courts, and alleys. For purposes of this article, streets shall only be intended to include city-owned streets, and not state- or county-owned and/or controlled streets.

Sec. 82-503. Naming of public facilities; co-naming and renaming of streets.

(a) *Naming of an exterior portion of a public facility (including naming of a park).* Whenever a name is needed for a new public facility, or whenever there is a request to rename an existing public facility, within or owned by the city, the naming, or renaming, shall first be considered and reviewed by the committee according to the following procedures:

- (1) Any person, organization, association, corporation or other entity, including a member of the city commission or the administration of the city, may propose a name for a new public facility, or may propose renaming an existing public facility, at any time by submitting the proposed name in writing (the proposal) to the committee.
- (2) Within a reasonable time after receipt of the proposal, the committee shall meet to consider and review the naming, or renaming, of the public facility. Notice of the meeting shall be given to all persons who proposed the name, or rename, for the public facility.
- (3) After reviewing the proposal, the committee shall transmit its recommendation to the city commission regarding the proposal.
- (4) Within a reasonable time after receiving the recommendation from the committee on the proposal ~~for the naming or renaming~~, the city commission shall call a public hearing.
- (5) Notice of the public hearing regarding the naming or renaming of the public facility, shall be published at least ten (10) days prior to the hearing in a newspaper of general circulation in the city.
- (6) Except as provided in subsection (8), Any any proposed naming, or renaming, of a public facility approved by the city commission must be

approved by a 5/7ths vote, and must also be submitted to the electorate of the city by referendum at the next regularly scheduled election. The name shall be approved by a majority of the electorate voting in the referendum.

- (7) ~~Notwithstanding any other provision of this section, p~~Public facilities shall not be named, or renamed, for living persons, unless such persons are over 100 years of age; or, for living persons under 100 years of age, unless the naming or renaming is (i) approved by a majority of the members of the committee; (ii) approved by the city commission by a 5/7 ths vote; and (iii) submitted to the electorate of the city by referendum at the next regularly scheduled election and approved by a majority of the electorate voting in such referendum. ~~However, this provision shall not apply to public facilities named or renamed prior to June 29, 1991.~~
- (8) ~~Notwithstanding any other provision of this section, t~~The referendum requirements of this section shall not apply to (i) where a public facility that is to be named or renamed solely for the name of the city, the geographic area or physical location of the facility and/or the street or portion of the street where the facility is located, the function of the facility, or the current name of the facility; and (ii) the following public facilities, provided that the proposed naming or re-naming is for a term of twenty (20) years or less, including option periods:
- (i) Miami Beach Convention Center, 1901 Convention Center Drive;
 - (ii) Colony Theater, 1040 Lincoln Road;
 - (iii) 10th Street Auditorium/Welcome Center, 1001 Ocean Drive;
 - (iv) Historic City Hall, 1130 Washington Avenue;
 - (v) 1701 Meridian Avenue;
 - (vi) North Beach Bandshell, 7275 Collins Avenue;
 - (vii) Byron Carlyle Theater, 500 71 Street;
 - (viii) City-owned and operated parking garages;
 - (ix) Adaptive Recreation Center, 5601 Collins Avenue (to be constructed); and
 - (x) 72nd Street Civic Complex, 263-299 72nd Street (to be constructed).

* * *

SECTION 2. REPEALER.

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

SECTION 3. SEVERABILITY.

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

SECTION 4. CODIFICATION.

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

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect on the _____ day of _____, 2019.

PASSED AND ADOPTED this _____ day of _____, 2019.

ATTEST:

Dan Gelber, Mayor

Rafael E. Granado, City Clerk

Underline denotes additions
Strikethrough denotes deletions

(Sponsored by Commissioner Mark Samuelian)

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

Rafael E. Granado 12-2-19
City Attorney RAP Date