

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 142 "ZONING DISTRICT REGULATIONS;" AMENDING ARTICLE 1, "IN GENERAL" TO BE ENTITLED "GENERAL TO ALL ZONING DISTRICTS;" AT SECTION 142-1 TO BE ENTITLED: "GAMBLING AND CASINOS USES ARE PROHIBITED IN THE CITY OF MIAMI BEACH;" PROHIBITING MAIN, CONDITIONAL AND ACCESSORY USES RELATING TO GAMBLING AND CASINOS; PROVIDING FOR EXEMPTIONS UNDER STATE LAW; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, the Florida Legislature in considering certain legislative amendments that would allow the expansion of slot machines and casino gambling; and

WHEREAS, the City of Miami Beach has a long-standing policy against casino gambling in Florida as evidenced by the following resolutions: 2017-29846, 2014-28529, 2011-27812, 2008-26927, and 2008-26925; and

WHEREAS, the legislation being considered would allow for casino operations that rival in size and scope the gambling operations existing in Las Vegas and Atlantic City; and

WHEREAS, large scale casino operations cannibalize non-gambling businesses and have caused the shuttering of forty percent of all restaurants and one-third of all retail businesses in Atlantic City; and

WHEREAS, our community will bear the severe and painful economic and social costs that always accompany expansive gambling, including the misery of individuals and families touched by problem gambling as they are at higher risk of divorce, bankruptcy, child abuse, domestic violence, crime and suicide; and

WHEREAS, expanded gambling promotes corruption of the governmental process as immensely wealthy gambling companies from all over the world seek to receive benefits from state governmental entities that regulate their existence and profits; and

WHEREAS, if gambling interests are allowed to obtain major casino expansion, full scale casino and gambling operations will become commonplace throughout our community and state; and

WHEREAS, the false promises of increased revenue and jobs, like the broken promises that accompanied the lottery and other gambling expansions are intended to convince Floridians to make a fool's gamble with their future; and

WHEREAS, the City of Miami Beach desires to continue to be a number one destination for tourism and local growth to the economy by supporting independent hotels, restaurants and entertainment, without the overwhelming introduction of gambling; and

WHEREAS, the Comprehensive Plan, at Objective 1: Land Development Regulations, at Policy 1.2, is being amended to prohibit gambling and casino operations authorized pursuant to

chapters 550 and 551, Florida Statutes from operating in any land use category within the City of Miami Beach; and

WHEREAS, additionally, Florida courts have consistently held that a license to offer gambling, including pari-mutuel wagering, slot machine gambling, or a card room at a pari-mutuel facility, is a privilege rather than a vested right, that requires strict supervision and regulation in the best interests of the state. See Sec. 550.1625(1), Florida Statutes; see *also Solimena v. State*, 402 So. 2d 1240, 1247 (Fla. 3d DCA 1981), rev. denied, 412 So. 2d 470 (citing *State ex rel. Mason v. Rose*, 165 So. 347 (Fla. 1936)); *Carroll v. State*, 361 So. 2d 144, 147 (Fla. 1978) ("[t]here is no constitutional right to conduct a gambling business"); and

WHEREAS, the City of Miami Beach rejects any expansion of gambling into the City of Miami Beach, and precludes any destination casinos from being authorized in our land development regulations; and

WHEREAS, it is in the best interest of the City to prohibit gambling for the general health, safety, morals, and welfare of the community; and

WHEREAS, the amendments set forth below are 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. Chapter 142, "Zoning District Regulations," Article I, "In General," to be amended and entitled "General to all Zoning Districts", and amending Section 142-1, "Gambling and Casinos are a Prohibited use in the City of Miami Beach," as follows:

CHAPTER 142

ZONING DISTRICTS AND REGULATIONS

ARTICLE I. - IN

GENERAL TO ALL ZONING DISTRICTS

Sec. 142-1 Reserved. Gambling and Casinos are Prohibited Uses in The City of Miami Beach.

The playing or engaging in any game of cards, keno, roulette, faro, or other game of chance, at any place, by any device, whatever, for money or other thing of value, shall be considered to be "gambling." An establishment in which gambling occurs is a casino.

"Fantasy contest" shall include but not be limited to a fantasy or simulation sports game or contest in which contest participants manage a fantasy or simulation sports team for prizes or money in any gambling or casino use in the city.

Gambling and casinos are prohibited in the City of Miami Beach. Gambling and casino uses shall include all uses authorized pursuant to chapter 550 and chapter 551, Florida Statutes, as may be amended from time to time; and "fantasy contests," as defined above. These uses are prohibited in any zoning category within the City, whether as a main, conditional, or accessory use. No business tax receipt shall issue for the aforementioned uses, which may also include but not be limited to: any machine of chance (device) regulated by the state compact or chapters 550 and 551, as may be amended from time to time, pari-mutuel uses, horse racing, dog racing, jai alai, fantasy contests and associated gambling or casino related uses. The terms "gambling" and "casino" shall be provided the broadest definition despite any amendments the state legislature may make to the above referenced chapters of the Florida Statutes.

The following uses are exempt from the City's definition of gambling:

(1) the lottery regulated under Chapter 24, Florida Statutes.

(2) Penny-ante games pursuant to section 849.085, Florida Statutes.

(3) Condominium associations, cooperatives, homeowners associations, charitable, nonprofit or veteran organizations authorized to hold drawings by chance, drawings, or raffles pursuant to 849.0931(2) through (9), and 849.0935, Florida Statutes.

(4) Game promotion in connection with the sale of consumer products or services pursuant to 849.094, Florida Statutes.

(5) Bowling tournaments pursuant to section 849.141, Florida Statutes.

* * *

Secs. 142-42—142-70. - Reserved.

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SECTION 2. 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 re-numbered or re-lettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

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. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

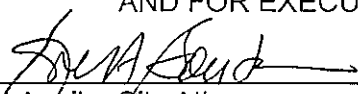
PASSED and ADOPTED this _____ day of _____, 2017.

Philip Levine
Mayor

ATTEST:

Rafael E. Granado
City Clerk

APPROVED AS TO FORM
AND LANGUAGE
AND FOR EXECUTION



Raul Aguila, City Attorney
Date 5-11-17

First Reading: _____, 2017
Second Reading: _____, 2017

Verified By: _____
Thomas R. Mooney, AICP
Planning Director

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