CITY OF HIALEAH
CITY ATTORNEY'S OFFICE

MEMORANDUM

TO: **Mayor Carlos Hernandez, and Members of the Hialeah City Council**

FROM: **William M. Grodnick, City Attorney** WMG

DATE: **May 28, 2013**

RE: **Changes to the Hialeah Park District (HPD) Zoning Regulations**

The proposed ordinance incorporates a number of changes to the permitted uses allowed in the Hialeah Park District (HPD). The proposed ordinance clarifies the language in the zoning regulations to specifically allow state-sanctioned casino gambling in the HPD zoning district. This change is necessitated by the anticipated opening of the casino together with thoroughbred racing in July.

Other changes include some additional and expanded uses that may be allowed in the HPD zoning district such as freestanding convention and exhibition facilities, medical and dental clinics and offices, an instructional or educational facility for the care and medical treatment of horses, an equestrian hospital for the care treatment of horses that race, train or exercise at the Racetrack and a valet manual carwash for Racetrack patrons subject to site plan review and approval.

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ORDINANCE NO. 2013-38

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 98 ENTITLED "ZONING", ARTICLE V. ZONING DISTRICT REGULATIONS, DIVISION 34. HIALEAH PARK DISTRICT, OF THE CODE OF ORDINANCES, BY REVISING HIALEAH CODE § 1630.13 ENTITLED "PERMITTED USES, LIMITATION AND PROHIBITIONS" TO PROVIDE FOR STATE-SANCTIONED CASINO GAMBLING AND RELATED ACTIVITES, CONVENTION AND EXHIBITION FACILITIES, MEDICAL AND DENTAL OFFICES AND PROVIDING AN EXPANDED DEFINITION OF EQUESTRIAN HOSPITAL AND TRAINING FACILITIES AND MISCELLEANOUS REVISIONS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board at its meeting of May 22, 2013 recommended approval of this ordinance; and

WHEREAS, the general purpose and intent of this ordinance is to provide proper zoning regulations in the best interest of the health, safety, welfare and aesthetics of the community and the proper administration of its government; and

WHEREAS, the specific purpose and intent is to provides for additional uses and clarification of existing uses to include state-sanctioned casino gambling and related activities within the HPD district.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: Chapter 98 entitled "Zoning", Article V. Zoning District Regulations, of the Code of Ordinances of the City of Hialeah, Florida is hereby amended, by adding Division 34 entitled "Hialeah Park District" to read as follows:

Chapter 98

ZONING

* * *

ARTICLE V. ZONING DISTRICT REGULATIONS

* * *

DIVISION 34. HPD HIALEAH PARK DISTRICT

* * *

Sec. 98-1630.13. Permitted uses, limitations and prohibitions.

(a) The permitted uses of the HPD district for land, buildings, structures and other improvements are the following:

(1) State-licensed horseracing, including but not limited to, thoroughbred and quarter horse racing, licensed gaming, pari-mutuel wagering, ~~and~~ card room activities~~,~~ and such uses allowed by ch. 849, 550 and 551, F.S., as amended from time to time.

(2) Professional services and professional offices allowed in the OPS office and professional services district.

(3) Permitted uses identified in B-1 highly restricted retail district for retail trade and services, consumer goods (rental), finance and insurance, full-service restaurants including the sale of beer, wine or alcoholic beverages, limited-service restaurants, medical and dental clinics and offices, individual and family services, arts, fitness sports and recreational instruction, public and private schools, colleges or universities but not vocational and technical schools.

(4) Parking garages and facilities.

(5) Hotels and normal and customary ancillary uses thereto.

(6) Banquet halls, and nightclubs and bars only in connection with the operation of the hotel, gaming and entertainment complexes comprising the racetrack and card rooms.

(7) Cultural facilities, museums, ~~and~~ outdoor entertainment venues and freestanding convention and exhibition facilities.

(8) Fitness centers,

(9) Movie theaters, bowling alleys, roller rinks and ice-skating rinks.

(10) Department stores, grocery stores and supermarkets.

(11) Equestrian hospital for the care and medical treatment of horses that ~~are housed to race on the premises of the racetrack~~ race, train or exercise at the racetrack.

(12) An instructional or educational facility for the care and medical treatment of horses.

(b) The following uses are prohibited:

(1) Residential uses except for seasonal employees that are directly involved with the housing, training or caring for horses racing on the premises of the racetrack.

(2) Flower, fruit, plant and tree nurseries and garden centers. except as operated in conjunction with home improvement stores; provided, however, the square footage represents no more than 15% of the total square footage of floor space under roof.

(3) Hospitals, assisted living facilities and residential care and treatment facilities.

(4). Rooming houses, lodging houses and motels.

(5) Secondhand (merchandise) dealers or sale or pawn of secondhand goods.

(6) Dry cleaning establishments where the dry cleaning is performed on the premises or where hazardous materials and flammable solvents are stored or used on the premises.

(7) Manual and mechanical carwashes except that the hotel may provide concierge services that include a manual carwash inside a garage facility for hotel guests and the racetrack may provide a manual carwash for its patrons subject to site plan review and approval.

(8) Industrial uses.

(9) Automotive uses first permitted in the C-1 restricted retail commercial district identified in paragraphs 98-1066(4) and (5).

(10) Automotive and marine uses first permitted in the C-2 liberal retail commercial district identified in paragraphs 98-1111(23) through (31).

(11) Funeral homes, funeral viewing services, cemeteries and all related activities.

(12) Commercial uses first permitted in the C-3 extended liberal commercial district identified in paragraphs 98-1156(2), (3), (4), (6), (7), (8), (10) and (11).

(13) Other commercial uses first permitted in the C-2 liberal retail commercial district identified in paragraphs 98-1111(3), (9), (13), (19), (20) and (22).

(14) Other commercial uses first permitted in the C-1 restricted retail commercial district identified in paragraphs 98-1066(6), (10) and (13).

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Section 2: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed $500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the City may pursue other remedies such as

abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 4: **Inclusion in Code.**

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the sections of this ordinance shall be renumbered to conform to the uniform numbering system of the Code.

Section 5: **Severability Clause.**

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 6: **Effective Date.**

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED AND ADOPTED this 25 day of June, 2013.

Isis Garcia-Martinez
Council President

Attest:

Approved on this 16 day of July, 2013.

Marbelys Fatjo, Acting City Clerk

Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

William M. Grodnick, City Attorney

~~Strikethrough~~ indicates deletion. Underline indicates addition.

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