

ORDINANCE NO. 2019-029

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 26 "TOD TRANSIT ORIENTED DEVELOPMENT DISTRICT" AND IN PARTICULAR ADDING A NEW SECTION 98-1561 ENTITLED "FACTORY TOWN ENTERTAINMENT SUBDISTRICT PILOT PROGRAM" OF THE CODE OF ORDINANCES OF THE CITY OF HIALEAH, REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH, PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board at its meeting of January 23, 2019 recommended approval of this ordinance; and

WHEREAS, the city in the geographic area provided for in this ordinance seeks to create a pilot program to provide an opportunity for experimentation and creativity to enhance the cultural and economic life in the city by permitting for innovative design opportunities including entertainment uses, signage and art features; and

WHEREAS, to ensure compatibility with the surrounding communities and carry forward the purpose of this ordinance, this ordinance shall provide for a sunset, and expiration of approvals within a time certain.

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

Section 1: Chapter 98, entitled "Zoning", Article V. "Zoning District Regulations" Division 26 "TOD Transit Oriented Development District", of the Code of Ordinances of the City of Hialeah, Florida is hereby amended by adding a new Section, Hialeah Code Section 98-1561 entitled "Factory Town Entertainment Subdistrict Pilot Program."

Chapter 98

ZONING

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ARTICLE V. ZONING DISTRICT REGULATIONS

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Sec. 98-1561. –Factory Town Entertainment Subdistrict Pilot Program.

- (a) Intent. In order to encourage the adaptive reuse of large industrial properties containing a minimum of 4 acres of land with existing warehouse structures located within the Factory Town Entertainment Subdistrict with a mix of uses and functions, the following pilot program is instituted for a period of six (6) months and will automatically terminate on the one hundred eightieth day (180) following the date this ordinance is approved by the City Council, then signed by the Mayor, unless otherwise extended by the City Council.
- (b) Timely application and expiration of approvals. Properties that submit an application for a conditional use permit as provided for in this ordinance, and obtain approval of the conditional use permit by the City Council pursuant to this pilot program on or before the expiration of this ordinance may proceed and continue to develop the property, including all development phases approved thereunder, pursuant to the regulations set forth in this ordinance and subject to subsection (c).
- (c) Expiration of approvals. Upon the approval of a rezoning, subsequent development site plan, concurrency review, and building permits shall expire if the time requirements below are not met:
 - (i) A complete application for site plan review for all phases of development has not been submitted within 12 months following the date of approval of a rezoning;
 - (ii) A complete application for a building permit for one of the approved phases of development as reflected on the approved site plan has not been submitted within 18 months following the date of approval of the site plan;
 - (iii) A complete application for a building permit for one of the next phases of development as reflected on the approved site plan has not been submitted within 24

months following the issuance of the certificate of completion for the prior phase of development; and

(iv) A complete application for a building permit for one of the next phases of development as reflected on the approved site plan has not been submitted within 36 months following the issuance of the certificate of completion for the prior phase of development.

(v) Notwithstanding paragraphs (i), (ii), (iii) and (iv) a six-month extension of time may be granted by the City Council provided all applicable building, zoning and engineering regulations remain the same and good cause for the delay has been shown by the applicant. Good cause may include, but shall not be limited to, delay caused by governmental action or inaction or other factors beyond the control of the applicant, such as declared state of emergencies, or hurricanes. An extension shall only be granted where an applicant has requested an extension in writing prior to the expiration of any of the time requirements in paragraphs (i), (ii), (iii) and (iv) above.

(d) Geographic Area. The Factory Town Entertainment Subdistrict is comprised of properties located on the east side of the CSX railroad tracks, having the south side of NW 49th Street as its northern boundary, the north side of SE 8th Street (NW 46th Street) as its southern boundary, and the west side of NW 37th Avenue as its eastern boundary.

(e) Permitted Uses. The permitted uses for new or existing buildings in the Factory Town Entertainment Subdistrict shall include those uses permitted in the Hialeah Market Station Subdistrict, office uses, and the conditional uses enumerated in Section 98-1561(f). All development orders for multifamily residential uses within the Factory Town Entertainment Subdistrict shall contain a condition requiring development order applicants, successors or assigns to provide a notice to buyers, lessees and renters of multifamily residential units informing them that the subject property is located near entertainment uses that could create light and noise. Each multifamily residential unit may have a minimum size of 275 square feet and each lodging unit may have a minimum size of 200 square feet, and shall have at least one kitchen, bathroom and shower room.

(f) Conditional Use Permit Required for Entertainment Uses.

Distilleries, entertainment establishments, festivals, live music venues, nightclubs, banquet halls, dance halls, bars, lodging, hotel uses, special events, exhibits, and similar outdoor uses, such as retail, dining (including food trucks and food carts), including other entertainment, music and art festivals shall be permitted subject to the approval of a conditional use permit as provided for in this subsection. Special events within the Factory Town Entertainment Subdistrict shall be governed by this

ordinance. There shall be no limit on the number of special events permitted within a calendar year, subject to the approval process herein.

1. *Alcoholic Beverages.* Establishments that sell or serve alcoholic beverages and provide for entertainment that are compatible with other land uses permitted in the geographic area but, because of the unique characteristics or potential impacts on the surrounding neighborhood and the city as a whole, shall require individual review as to their location, design, configuration, and operation of the establishment at the particular location proposed, as well as the imposition of conditions or limitations on the use in order to ensure that it is compatible with the surrounding neighborhoods and appropriate at the particular location.

2. *Application Requirements.* No use designated as a conditional use shall be established until after such use has received approval under the provisions of this section. The conditional use permit will follow the subject properties, regardless of ownership. The applicant requesting a conditional use permit must have a legal interest in the property or obtain permission from the property owner as evidenced by a properly executed affidavit. An application for conditional use permit approval shall be filed with the planning and zoning division. The application shall provide sufficient information to establish the proposed use meets the requirements of this ordinance, advances the established intent of the Factory Town Entertainment Subdistrict, and meets all other applicable land development regulations. The application shall also include:
 - a. The scale and intensity of the proposed conditional use including:
 1. A site plan providing the floor area layout, the square feet of enclosed building for each specific use;
 2. A written and graphic summary of any proposed use, which may include a summary or description or illustration of the configuration, design, and/or operational plan addressing hours of operation, number of employees, menu items, and other operational and/or design characteristics pertinent to the application;
 3. Off-street parking needs and traffic circulation patterns to minimize congestion; and

4. Proximity of the proposed establishment to residential uses.

b. On or off-site improvements, if any, to include the following:

1. Roadway or signalization improvements, or other similar improvements, including enhancements to stress the connectivity with the Tri-Rail Market Station;

2. Public facility improvements required to ensure compliance with the city's concurrency management system;

3. Open areas and detailed use of such areas;

4. A plan for screening and buffers to minimize visual impacts of light and glare unto adjacent properties, and to mitigate amplified sound, that is, any sound projected or transmitted by artificial means, including, but not limited to, loudspeakers, amplifiers, megaphones or any similar device that is louder than conversational talk, and the associated impacts of both light and sound cumulatively of the proposed use on adjacent properties, including the use of building orientation, setbacks, landscape and other design criteria. Where light and/or amplified sound are to be provided, the locations and orientations of any lighting devices, megaphones, loud speakers or other devices shall be provided, and the measures to be implemented to minimize and mitigate light, glare, and noise impacts to contiguous properties. Plans shall include the number of any performers or other persons that transmit amplified sound, along with a light and noise attenuation plan; Establishments and special events shall be governed by this ordinance and the terms of the approved light and noise attenuation plan, which shall control in the event of a conflict with the restrictions set forth in § 58-47(a) of the Hialeah Code of Ordinances.

5. Mitigation techniques to abate smoke, odor, noise, amplified sound and lighting impacts;

6. A parking plan which fully describes where and how parking is to be provided and utilized, including facilities to

accommodate a waiting area, and designated drop off and pick up areas for shared car ride services;

7. Medical services and facilities available and locations of such facilities including provisions for first aid and emergency medical services (to include details as approved by the fire department);

8. A plan for the security (to include details approved by police and fire) to be provided, to include the number of persons proposed or required to monitor or facilitate uses to include spectator or participant control;

9. A sanitation plan, which addresses on-site facilities and off-premises issues resulting from the operation of the establishment;

10. An application fee of \$5,000;

11. A written summary and renderings of any proposed use;

12. Ownership affidavit or owner's sworn consent, if applicable; and

13. An indoor/outdoor crowd control plan addressing how people waiting to gain entry into the establishment, on the premises, and in existing the event will be organized.

(g) General standards of review. All proposed conditional uses shall meet each of the following standards:

1. The proposed use shall be consistent with the Comprehensive Plan;
2. Utilities, roadway capacity, drainage, and other necessary public facilities, including police, fire and emergency services, shall exist at the city's adopted levels of service;
3. The measures to be undertaken to provide ingress and egress to the proposed use in a manner that minimizes traffic congestion in the public streets;
4. The design of the proposed use shall minimize adverse effects, including amplified sound and visual impacts, of the proposed use on adjacent properties through the use of building

orientation, setbacks, buffers, landscaping and other design criteria; and

5. Factory Town Entertainment Subdistrict applicants shall provide a declaration attesting to the potential presence of legally permitted entertainment uses within a 1,000 foot radius as measured from the nearest point of the applicant's property.

(h) Review by city council. The city council may attach such conditions to ensure and prevent or minimize adverse effects on other properties in the neighborhood. A declaration of restrictive covenants providing such conditions and limitations of use shall be recorded in the public records of the county. The city council may also require formal approval of a conceptual site plan with all proposed phases of development prior to the issuance of building permits for any phases thereunder.

(i) Expiration of conditional use approval. Unless otherwise provided in the approval, the approval of a conditional use application shall be void if the recipient does not obtain a building permit for any phase of the proposed development as provided in 98-1561(c).

(j) Limited exception from distance separation requirements. There shall be no limit on the number of state alcoholic beverage licenses permitted within the Factory Town Entertainment Subdistrict. Establishments selling, offering for sale, delivering, serving or permitting the consumption of any alcoholic beverage within the Factory Town Entertainment Subdistrict are exempt from the distance requirements set forth in sections 6-66(a), but not the distance requirements from schools provided therein. This limited exception shall not apply to liquor stores. Liquor stores shall remain subject to all the provisions of section 6-66(a), excluding the distance including restrictions on distance separation and hours of operation. The limited exception from distance separation requirements herein shall apply only to those uses located within the properties that have obtained a conditional use approval under this ordinance.

(k) Notwithstanding any provision to the contrary, establishments selling, offering for sale, delivering, serving or permitting the consumption of any alcoholic beverages in the Factory Town Entertainment Subdistrict shall be permitted to sell, offer for sale, deliver, serve or permit to be consumed on the premises alcoholic beverages on a 24-hour basis, seven days a week, including holidays.

(l) Restaurants and other food beverage establishments serving alcohol within the Factory Town Entertainment Subdistrict shall comply with applicable State licensing requirements for such uses.

(m) Master Sign Plan. Notwithstanding anything to the contrary, signage for projects within the Factory Town Entertainment District may exceed the sign size, number, height, type and

location restrictions set forth in Chapter 74, subject to approval of a master sign plan by the City Council via the conditional use process in section 98-1561(f). LED signs within the Factory Town Entertainment District shall comply with the illumination standards set forth in the City Code. The master sign plan shall address, to the extent applicable, the following: (1) proposed locations; (2) materials; (3) type of illumination; (4) size; (5) height; (6) quantity; (7) uniform standards for non-business signage, including directional, informational, and kiosk signs.

Section 2: 98-1561-2 98-1570 – reserved.

Section 3: **Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict. In the event of a conflict between the provision of this Ordinance and any other City Code or regulation to the contrary, the provisions of this Ordinance shall control.

Section 4: **Penalties.**

Every person convicted of a violation of any provision of the Code or any ordinance, rule or regulations adopted or issued in pursuance thereof shall be punished by 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 adjunction and revocation of licenses or permits.

Section 5: **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 6: **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.

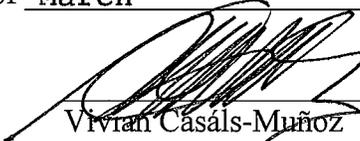
Section 7: Effective Date.

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.

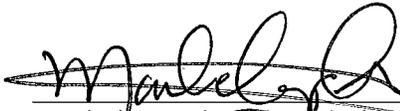
PASSED and ADOPTED this 26 day of March, 2019.

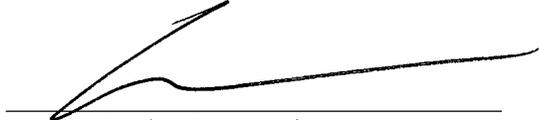
THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.

Attest:


Vivian Casals-Munoz
Council President

Approved on this 3 day of April, 2019.


Marbelys Fatjo, City Clerk


Mayor Carlos Hernandez

Approved as to form and legal sufficiency:


Lorena E. Bravo, City Attorney

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Ordinance was adopted by a 7-0 vote with Councilmembers, Caragol, Zogby, Lozano, Casals-Munoz, Hernandez, Garcia-Martinez and Cue-Fuente voting "Yes".