

ORDINANCE GRANTING A CONDITIONAL USE PERMIT (CUP) PURSUANT TO HIALEAH CODE § 98-1630.22(e) TO ALLOW THE SALE AND CONSUMPTION OF MALT BEVERAGES (BEER) IN THE ALWOD ARTIST LIVE/WORK OVERLAY DISTRICT, "LEAH ART DISTRICT"; GRANTING A VARIANCE PERMIT TO ALLOW 22 PARKING SPACES, WHERE 78 ARE REQUIRED, ALL BACKING-OUT INTO THE STREET, WHERE BACK-OUT PARKING IS ONLY ALLOWED IN RESIDENTIAL DISTRICTS CONTRA TO HIALEAH CODE §§ 98-2189 AND 98-2190, AND WAIVING ALL OF THE CITY OF HIALEAH LANDSCAPE MANUAL REQUIREMENTS; **PROPERTY LOCATED AT 1395 EAST 11 AVENUE, HIALEAH, FLORIDA ZONED M-1 (INDUSTRIAL DISTRICT);** REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the Planning and Zoning Board at its meeting of February 8, 2017 recommended approval of this ordinance; and

**WHEREAS**, the applicant has proffered a Declaration of Restrictive Covenants, which provides, among other things, a plan for shared parking, hours of operations, a plan for crowd control, and which otherwise meets the requirements of Hialeah Code §98-1630.22(e), to which the City accepts.

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

**Section 1:** The below-described property is hereby granted a conditional use permit (CUP) to allow the sale and consumption of malt beverages (beer) in the Alwod Artist Live/Work Overlay District, "Leah Art District" pursuant to Hialeah Code § 98-1630.22(e).

**Section 2:** The applicable requirements of latest edition of the City of Hialeah Landscape Manual are waived. The below-described property is hereby granted a variance permit to allow 22 parking spaces, where 78 are required, all backing-out into the street, where back-out parking is only allowed in residential districts contra to Hialeah Code §§ 98-2189(10) and (15), and 98-2190 that respectively provide in pertinent part:

"Minimum required off-street parking spaces. Establishments serving food, liquor or refreshments, including restaurants, lounges, nightclubs or other similar places.

a. If dancing is not permitted or if live entertainment is not provided, one parking space for each 150 square feet of gross floor area is required.

Manufacturing and industrial use. One parking space for each 1,000 square feet, or fractional part thereof, of gross floor area.”

“Accessibility. In all zoning districts, the parking area shall be so arranged that there is no backout into an adjacent private or public street or right-of-way, except for those lots in low density residential districts or developments.”

The property is zoned M-1 (Industrial District) and is located at 1395 East 11 Avenue, Hialeah, Florida and legally described as follows:

**BLOCK 4, “KNIGHTS PARK,” ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT 34, AT PAGE 18, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, LESS THE NORTH 945 FEET THEREOF, TOGETHER WITH THAT PORTION OF THE 25 FOOT ALLEY LYING ADJACENT THERETO, AS SHOWN ON THE SAID PLAT OF KNIGHTS PARK, LESS THE SOUTH 30 FEET THEREOF.**

**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.

**Section 4: 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 5: Additional Penalties upon Violation of Conditions of Use.**

Any change of the terms and conditions of the use identified in this ordinance and as provided in the Declaration of Restrictive Covenants will cause a revocation of the city occupational license if issued in connection herewith and the property shall revert to the zoning classification without the benefit of the conditional use and associated variances.

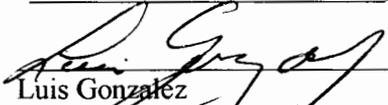
**Section 6: Severability Clause.**

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.**

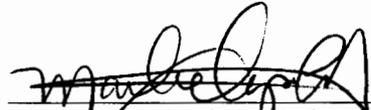
This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

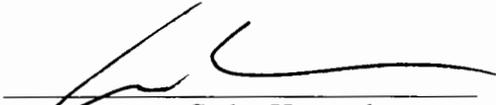
THE FOREGOING ~~PASSAGE~~ <sup>PASSAGE</sup> AND ADOPTED this 28 day of February, 2017.  
OF THE CITY OF HIALEAH WAS  
PUBLISHED IN ACCORDANCE  
WITH THE PROVISIONS OF  
FLORIDA STATUTE 166.041  
PRIOR TO FINAL READING.

  
Luis Gonzalez  
Council President

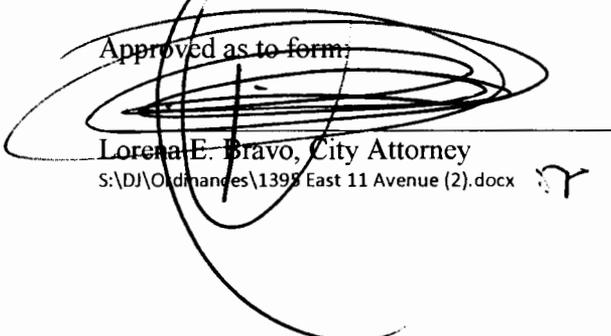
Attest:

Approved on this 8<sup>th</sup> day of March, 2017.

  
Marbelys Fatjo, City Clerk

  
Mayor Carlos Hernandez

Approved as to form:

  
Lorena E. Bravo, City Attorney

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Ordinance was adopted by a (6-0-1) vote with Councilmembers, Caragol, Gonzalez, Hernandez, Cue-Fuente, Garcia-Martinez and Casáls-Muñoz voting "Yes". Councilmember Lozano absent.