

**ORDINANCE NO.** \_\_\_\_\_

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 98 ENTITLED "ZONING", ARTICLE V. ZONING DISTRICT REGULATIONS, OF THE CODE OF ORDINANCES OF THE CITY OF HIALEAH, DIVISION 26 ENTITLED "TOD TRANSIT ORIENTED DEVELOPMENT DISTRICT", BY ADDING A NEW SECTION, SECTION 98-1559 ENTITLED "REVIEW OF REGULATIONS"; PROVIDING FOR SUNSET EVALUATION; EXPIRATION OF APPROVALS; AND OTHER AMENDMENTS AS MAY BE NECESSARY; 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 (TOD) Transit Oriented Development District was intended to promote and enhance livability and mobility by increasing residential options, enhancing the street experience for all modes of transportation, create open spaces and promote the establishment of businesses oriented to commuters and residents within the Tri-Rail Station area; and

**WHEREAS**, the adopted zoning district regulations provide for a more compact, pedestrian friendly, mixed-use development with appropriate urban design and architectural guidelines for the redevelopment of those properties that are located within a half-mile of Tri-Rail stations in the city and classified under a transit oriented development district land use designation and transit oriented development district zoning classification; and

**WHEREAS**, since the adoption of the Transit Oriented Development District regulations, applications for development approvals have not been forthcoming as anticipated; and

**WHEREAS**, the City wishes to assess the regulations impact on development at a future time to determine if amendments should be considered to enhance the goals originally envisioned, to spur development or assess other alternatives, including a repeal; and

**WHEREAS**, notwithstanding the sunset and repeal of the Transit Oriented Development District regulations, applications, lawful development permits, site plan approval, and concurrency reviews in progress, shall proceed pursuant to the regulations established in the Transit Oriented Development District, or as may be established pursuant to legal principles of vested rights and equitable estoppel.

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, Division 26 entitled "TOD Transit Oriented Development District" of the Code of Ordinances of the City of Hialeah, Florida is amended to read as follows:

**Chapter 98**

**ZONING**

\* \* \*

**ARTICLE V. ZONING DISTRICT REGULATIONS**

\* \* \*

**DIVISION 26. - TOD TRANSIT ORIENTED DEVELOPMENT DISTRICT**

\* \* \*

**Sec. 98-1559. Review of Regulations.**

(1) Sunset and amendments. An evaluation of the TOD land use designation, transit oriented development district zoning classification regulations, and other amendments as may be necessary, shall be considered in the first quarter of 2019, to determine if the TOD regulations shall be extended, amended or repealed. Absent any action by the city council, all the regulations in Division 26 entitled "TOD Transit Oriented Development District" in Chapter 98 of the Code of Ordinances of the City of Hialeah shall sunset and be repealed on December 31, 2019. Any approvals, applications, lawful development permits, site plan approvals, concurrency reviews in progress, or as may be established pursuant to legal principles of vested rights and equitable estoppel, shall proceed pursuant to the Transit Oriented Development District regulations in effect at the time, pursuant to the time frames provided for in subsection (2).

(2) 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:

(a) A complete application for site plan review has not been submitted within 12 months following the date of approval of the rezoning.

(b) A complete application for a building permit for each principal use shown on the approved final site plan has not been submitted within 18 months following the date of approval of the final site plan; and

(c) A building permit for each such principal use for each phase of development has not issued within 24 months following the date of approval of the final site plan.

(3) Extension on Approvals. Notwithstanding paragraphs 1 and 2, a six-month extension of time before final site plan expiration 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 totally beyond the control of the applicant. An extension shall only be granted where an applicant has requested an extension in writing during the effective period of any development permit.

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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: 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.

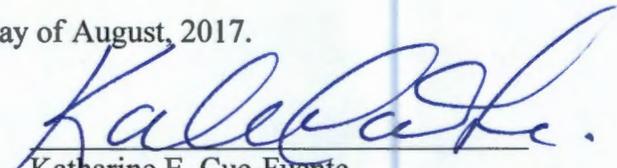
**Section 5: Effective Date.**

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 8 day of August, 2017.

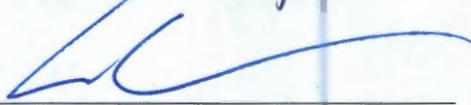
THE FOREGOING ORDINANCE OF THE CITY OF HIALEAH WAS PUBLISHED IN ACCORDANCE WITH THE PROVISIONS OF FLORIDA STATUTE 166.041 PRIOR TO FINAL READING.

Attest:

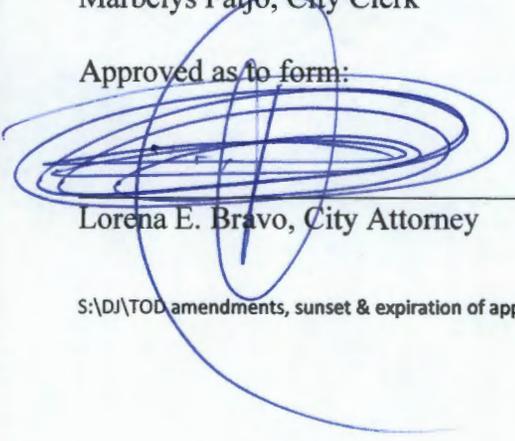
  
Katharine E. Cue-Fuente  
Council Vice President

Approved on this 21 day of August, 2017.

  
Marbelys Fajó, City Clerk

  
Carlos Hernandez, Mayor

Approved as to form:

  
Lorena E. Bravo, City Attorney

Ordinance was adopted by a (5-0-2) vote with Councilmembers, Lozano, Hernandez, Cue-Fuente, Garcia-Martinez and Casáls-Muñoz voting "Yes". Councilmember Caragol and Council President Gonzalez absent.