

ORDINANCE NO. 2017-084

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, EXTENDING THE TEMPORARY MORATORIUM FOR A PERIOD OF ONE HUNDRED AND TWENTY (120) DAYS FROM THE TERMINATION DATE OF SEPTEMBER 20TH OF THE EXISTING MORATORIUM ORDINANCE ON THE PROCESSING, APPROVAL, OR ISSUANCE OF BUSINESS TAX RECEIPTS AND DEVELOPMENT PERMITS AS THE TERM IS DEFINED IN FLORIDA STATUTES 163.3164(16), OR ISSUANCE OF ANY OTHER LICENSE OR PERMIT, WITHOUT FURTHER REVIEW AND AMENDMENTS TO ITS CODE, FOR COMMUNITY RESIDENTIAL HOMES OR GROUP HOMES AS DEFINED IN FLORIDA STATUTES 419.001, RESIDENTIAL CARE AND TREATMENT FACILITIES § 98-1986, LIMITED SUPERVISORY RESIDENTIAL CARE AND TREATMENT FACILITIES § 98-1987, SUPERVISORY RESIDENTIAL CARE AND TREATMENT FACILITIES § 98-1988, HIALEAH CODE OF ORDINANCES, OR ANY OTHER LICENSE OR PERMIT FOR THE ESTABLISHMENT OR OPERATION OF DETOX TREATMENT FACILITIES, CRISIS STABILIZATION UNITS, PRESCRIBED PEDIATRIC EXTENDED CARE CENTERS, RESIDENTIAL DETOXIFICATION AND TREATMENT CENTERS, RESIDENTIAL MEDICAL REHABILITATION CENTERS, ADULT CONGREGATE LIVING FACILITIES, ASSISTED LIVING FACILITIES, ADULT DAY CARE CENTERS, NURSING HOMES, ASSISTED CARE COMMUNITIES, AND ANY OTHER SIMILAR USE WHETHER OR NOT LICENSED BY THE STATE OF FLORIDA THROUGH THE AGENCY FOR HEALTH CARE ADMINISTRATION (AHCA) OR THE DEPARTMENT OF CHILDREN AND FAMILIES (DCF), TO PROVIDE THE CITY WITH AN OPPORTUNITY TO REVIEW, AMEND OR ENACT REGULATIONS GOVERNING SUCH USES; 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 October 25, 2017 recommended approval of this ordinance.

WHEREAS, the City enacted ordinance no. 2017-019, on March 20th 2017, establishing a moratorium on the titled uses for 180 days, and it is in the best interests of the City, to undertake further review to consider zoning and use regulations to protect both the uses subject to the moratorium, and the City's residents, businesses and visitors; and

WHEREAS, the City of Hialeah finds that the numerous array of Florida Statutes governing the uses identified in the title to this ordinance, and as may be licensed by AHCA or DCF, require reflection and study to consider appropriate legislation in the City as concerns these uses; and

WHEREAS, it would be inimical and detrimental to the health, safety, welfare and orderly development and planning of the City to permit the processing and approval of development permits as the term is defined in Florida statutes 163.3164(16), or issuance of business tax receipts, or any other license or permit, without further review or amendments to its Code for such uses; and

WHEREAS, it is in the best interest of the City to extend the moratorium on these uses in order to update its code to provide for such uses.

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

Section 1: Incorporation.

The foregoing facts and recitations contained in the preamble to this ordinance are hereby adopted and incorporated by reference as if fully set forth herein.

Section 2: Moratorium Imposed and Duration.

The City of Hialeah, Florida hereby extends the temporary moratorium under ordinance no. 2017-019, dated March 20th 2017, retroactively to the date of September 20th 2017, for an additional 120 days therefrom, on the processing, approval, or issuance of business tax receipts, and development permits as the term is defined in Florida statutes 163.3164(16), or any other license or permit, in order to review and consider amendments of its existing regulations or new regulations or any other license or permit for the uses provided in the title to this ordinance to provide the city with an opportunity to review, consider, amend or enact new regulations governing such uses, unless the City rescinds or extends the moratorium by a subsequent ordinance, such uses more particularly described as:

Community residential homes or group homes as defined in Florida Statutes 419.001, residential care and treatment facilities § 98-1986, limited supervisory residential care and treatment facilities § 98-1987, supervisory residential care and treatment facilities § 98-1988, Hialeah Code of Ordinances, or any other license or permit for the establishment or operation of detox treatment facilities, crisis stabilization units, prescribed pediatric extended care centers, residential detoxification and treatment centers, residential medical rehabilitation centers, adult congregate living facilities, assisted living facilities, adult day care centers, nursing homes, assisted care communities, and any other similar use whether or not licensed by the State of Florida through the Agency for Health Care Administration (AHCA) or the Department of Children and Families (DCF).

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.

Any person, business, association, corporation, partnership or other legal entity who violates any of the provisions of this ordinance shall receive a civil penalty, up to a maximum of

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 28 day of November, 2017.

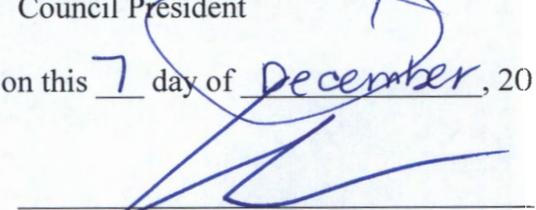
THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.


Vivian Casals-Muñoz
Council President

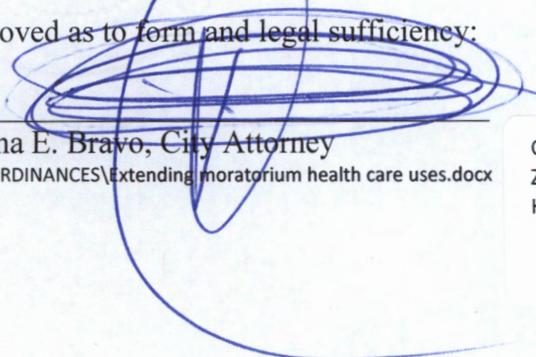
Attest:

Approved on this 7 day of December, 2017.


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 (5-0-2) vote with Councilmembers, Carago!, Zogby, Cue-Fuente and Casals-Muñoz voting "Yes". Councilmember Hernandez and Garcia-Martinez absent.