

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 11A. CR COMMERCIAL-RESIDENTIAL DISTRICT OUTSIDE HDUC, OF THE CODE OF ORDINANCES OF THE CITY OF HIALEAH, REVISING SECTION 98-891 ENTITLED "PROHIBITED USES AND LIMITATIONS"; ELIMINATING THE RESTRICTIONS ON THE SALE OF SECONDHAND JEWELRY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board at its meeting of October 26, 2016 recommended approval of this ordinance;

WHEREAS, Hialeah, Fla. Code Section 98-891 restricts secondhand or used merchandise and variances for the sale or pawn of secondhand jewelry in the Commercial-Residential District Outside the Hialeah Downtown Urban Center (HDUC);

WHEREAS, this amendment is consistent with the adoption of Hialeah, Fla. Ordinance 2016- _____ (November ____, 2016) allowing second-hand dealers and pawnshops as permissible uses within the Commercial-Residential District; and

WHEREAS, Hialeah, Fla. Code Section 98-890 incorporates by reference the permissible uses of the Commercial-Residential District including limited second-hand transactions by jewelry stores; and

WHEREAS, pursuant to Hialeah, Fla. Code Section 98-1595(a) the zoning regulations of the Commercial Residential District Outside the HDUC take precedence over all B-1, C-1, C-2 and C-3 commercial zoning districts within the Extended Hialeah Urban District Center (EHDUC); and

WHEREAS, allowing second-hand dealers, pawnshops and jewelry stores with limited secondhand dealing within the EHDUC, subject to all other zoning regulations and development

guidelines, would further the goals of the district to create a cosmopolitan, urban downtown neighborhood district where the community can reside, work and entertain.

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

Section 1: Chapter 98 entitled “Zoning” of the Code of Ordinances of the City of Hialeah, Florida, is hereby amended to read as follows:

Chapter 98

ZONING

* * *

ARTICLE V. ZONING DISTRICT REGULATIONS

* * *

**DIVISION 11A. - CR COMMERCIAL-RESIDENTIAL
DISTRICT OUTSIDE HDUC**

* * *

Sec. 98-891. - Prohibited uses and limitations.

In this district, all display, sales and service activities of permitted uses shall be contained within completely enclosed buildings, except that in open space or partially open space within the property line there may be cafes and outdoor dining areas. ~~No secondhand or used merchandise shall be offered for sale, displayed or stored, except in antique shops and~~ Antique shops or jewelry stores selling second-hand goods shall be subject to the limitations provided in section 98-1111(21)a.1., a.2., a.3. and a.4. No variances to the limitations for sale ~~or pawn~~ of secondhand jewelry items shall be granted.

* * *

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. Any permit issued for uses previously prohibited by this ordinance are hereby validated retroactively as of March 31, 2014.

Section 3: Penalties.

Every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation 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 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.

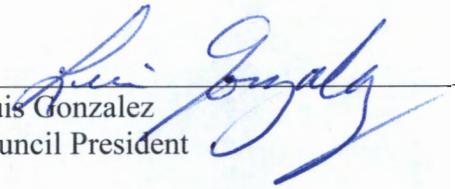
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or 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. This ordinance shall be applied retroactively as of March 31, 2014. Any permit issued prior to the Effective Date of this ordinance for uses previously prohibited are hereby validated retroactively as of March 31, 2014.

PASSED and ADOPTED this 13 day of December, 2016.

THE FOREGOING ORDINANCE
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:

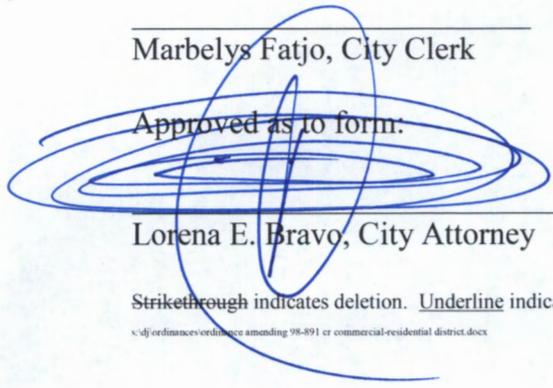
Approved on this ___ day of _____, 2016.

Marbelys Fatjo, City Clerk



Mayor Carlos Hernandez

Approved as to form:



Lorena E. Bravo, City Attorney

Strikethrough indicates deletion. Underline indicates addition.

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