

ORDINANCE NO. 2016-90

ORDINANCE REPEALING AND RESCINDING HIALEAH, FLA., ORDINANCE 2000-45 (MAY 9, 2000), THAT GRANTED A VARIANCE PERMIT, REPEALED AND RESCINDED HIALEAH, FLA. ORDINANCE 97-80 (OCTOBER 28, 1997) AND MODIFIED DECLARATION OF RESTRICTIONS DATED OCTOBER 16, 1987 TO ALLOW A 953-FOOT DISTANCE SEPARATION BETWEEN THE PROPOSED PAWN SHOP (SECONDHAND DEALER) AND AN EXISTING JEWELRY STORE (PRECIOUS METALS DEALER), WHERE A 2,000-FOOT MINIMUM DISTANCE SEPARATION WAS REQUIRED AND RELEASING TWO DECLARATIONS OF RESTRICTIVE COVENANTS, THE FIRST DATED OCTOBER 16, 1997, RECORDED IN BOOK 17909, AT PAGE 1375 AND THE SECOND DATED JULY 11, 2000, RECORDED IN BOOK 19188, AT PAGE 4325, **PROPERTY LOCATED AT 7190 WEST 12 AVENUE, HIALEAH, FLORIDA**; 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 November 9, 2016 recommended approval of this ordinance;

WHEREAS, pursuant to Hialeah, Florida Ord. 2000-45 (May 9, 2000), the Mayor and the City Council granted a variance permit to allow a 953-foot distance separation between the proposed pawn shop (secondhand dealer) and an existing jewelry store (precious metals dealer) located at 1171 West 68 Street, where a 2,000-foot minimum distance separation is required, repealed and rescinded Hialeah, Fla. Ordinance 97-80 (October 28, 1997) and modified a Declaration of Restrictive Covenants dated October 16, 1987;

WHEREAS, petitioner proffered, and the City accepted a Declaration of Restrictive Covenants in support of Hialeah, Florida Ord. 2000-45 (May 9, 2000), which was recorded on July 22, 2010 in book 19188, at page 4325 of the Public Records of Miami-Dade County, Florida, which limited the use of the property to secondhand dealer for the sale of antiques, jewelry, sporting goods, memorabilia and electronics, expressly prohibited the sale of weapons or firearms, and modified Declarations of Restrictive Covenants, recorded on October 16, 1997, in book 17909, at page 1375; and

WHEREAS, petitioner wishes to expand the use of the property to remove the limitations of use established by the Declarations of Restrictive Covenants recorded on October 16, 1997 and July 22, 2010, since the property complies with all current zoning regulations and requirements for secondhand dealers without the benefit of the variance permit granted pursuant to Hialeah, Florida Ord. 2000-45 (May 9, 2000).

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

Section 1: 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: The City of Hialeah, Florida hereby repeals and rescinds Hialeah, Florida Ord. 2000-45 (May 9, 2000) in its entirety.

Section 3: The City of Hialeah, Florida hereby releases Declaration of Restrictive Covenants recorded on October 16, 1997, recorded in Book 17909, at Page 1375 of the Public Records of Miami-Dade County, Florida and Declaration of Restrictions recorded on July 11, 2000, recorded in Book 19188, at page 4325 of the Public Records of Miami-Dade County, Florida. Property is located at 7190 West 12 Avenue, Hialeah, Florida and legally described as follows:

THE EAST 185.00 FEET OF THE NORTH 175.00 FEET OF TRACT 5 IN THE SOUTHEAST ¼ OF SECTION 26, TOWNSHIP 52 SOUTH, RANGE 40 EAST, CHAMBERS LAND COMPANY SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 68, OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, LESS THE NORTH 25.00 FEET THEREOF AND LESS THE EAST 35.00 FEET THEREOF.

Section 4: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 5: 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 6: Severability Clause.

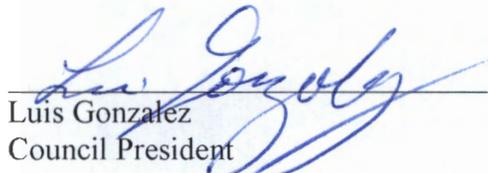
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or 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 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

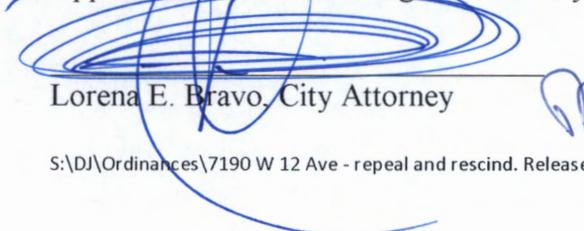
Attest:

Approved on this 16 day of December, 2016.


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, Caragol, Gonzalez, Hernandez, Lozano, and Cue-Fuente voting "Yes". Councilwoman Casáls-Muñoz not present and Councilwoman Garcia-Martinez absent.