

**ORDINANCE NO. 13-09**

ORDINANCE GRANTING A VARIANCE PERMIT TO ALLOW OUTDOOR DINING FOR A PROPOSED RESTAURANT, HAVING A FLOOR AREA OF 751 SQUARE FEET, WHERE A MINIMUM OF 850 SQUARE FEET IS REQUIRED, AND ALLOW 2 PARKING SPACES, WHERE 5 PARKING SPACES ARE REQUIRED, CONTRA TO HIALEAH CODE §§ 98-1371 (a)(1) AND 98-2189(10). **PROPERTY LOCATED AT 1899 WEST OKEECHOBEE ROAD, 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 January 9, 2013 recommended approval of this ordinance.

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 variance permit to allow outdoor dining for a proposed restaurant having a floor area of 751 square feet, where a minimum of 850 square feet is required, and allow 2 parking spaces, where 5 parking spaces are required, contra to Hialeah Code §§ 98-1371(a)(1) and 98-2189(10), which provides in pertinent part: “. . . “Outdoor dining for . . . restaurants having a minimum floor area under roof of 850 square feet may be allowed based on submission of a site plan approved by the City.” and “Off-street parking shall be provided in accordance with the following minimum standards . . . (10) *Establishments serving food, liquor or refreshments, including restaurants, lounges, nightclubs or other similar places.*

a. If dancing is not permitted or live entertainment is not provided, one parking space for each 150 square feet of gross floor area is required.”, respectively. Property located at 1899 West Okeechobee Road, Hialeah, Miami-Dade County, Florida and legally described as follows:

THE WEST 151.75 FEET OF THE NORTH 100 FEET OF TRACT 2, RESUBDIVISION OF ROSEDALE PARK, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 33, PAGE 83, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, LESS THAT PORTION DESCRIBED IN ORDER OF TAKING FILED JUNE 9, 1999 IN OFFICIAL RECORDS BOOK 18646, PAGE 1668, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, AS FOLLOWS:

A PARCEL OF LAND BEING A PORTION OF TRACT 2, RESUBDIVISION OF ROSEDALE PARK, AS RECORDED IN PLAT BOOK 33, PAGE 83, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, LYING IN THE NW  $\frac{1}{4}$  OF SECTION 13, TOWNSHIP 53 SOUTH, RANGE 40 EAST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF THE NORTHWEST  $\frac{1}{4}$  OF SAID SECTION 13; THENCE ON A GRID BEARING OF S 01°42'41" E ALONG THE EAST LINE OF SAID NW  $\frac{1}{4}$  AS ESTABLISHED BY THE RIGHT-OF-WAY CONTROL SURVEY FOR STATE ROAD 25 (OKEECHOBEE ROAD) STATE PROJECT NO. 07090-2503 (W.P.I. 6114016) (AS PREPARED BY E.R. BROWNWELL AND ASSOCIATES, INC.), FOR A DISTANCE OF 538.409 METERS (1,766.43 FEET) TO A POINT ON THE BASELINE A DISTANCE OF 464.618 METERS (1,524.33 FEET); THENCE N 30°04'07" E PERPENDICULAR TO THE PREVIOUSLY DESCRIBED COURSE A DISTANCE OF 3.173 METERS (10.41 FEET) TO THE POINT OF BEGINNING; THENCE N 50°54'16" W FOR A DISTANCE OF 36.360 METERS (119.29 FEET) TO THE POINT ON THE ARC OF A NON-TANGENT CURVE CONCAVE TO THE SOUTHEAST, HAVING A CHORD

BEARING OF N 16°09'08" E; THENCE NORTHWESTERLY, NORTHERLY AND NORTHEASTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A CENTRAL ANGLE OF 50°33'46" AND A RADIUS OF 8.992 METERS (29.50 FEET), FOR AN ARC DISTANCE OF 7.935 METERS (26.03 FEET) TO A POINT ON A NON-TANGENT LINE, SAID POINT BEING ON THE NORTH LINE OF SAID TRACT 2; THENCE N 89°37'01" E FOR A DISTANCE OF 29.168 METERS (95.70 FEET) TO A POINT ON THE ARC OF A NON-TANGENT CURVE CONCAVE TO THE SOUTHEAST, HAVING A CHORD BEARING OF S 51°45'22" W; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A CENTRAL ANGLE OF 26°19'32" AND A RADIUS OF 12.600 METERS (41.34 FEET), FOR AN ARC DISTANCE OF 5.789 METERS (18.99 FEET) TO A POINT OF TANGENCY; THENCE S 38°35'21" W FOR A DISTANCE OF 8.356 METERS (27.41 FEET) TO A POINT OF CURVATURE OF A TANGENT CURVE CONCAVE TO THE SOUTHEAST; THENCE SOUTHWESTERLY AND SOUTHERLY ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A CENTRAL ANGLE OF 45°57'18" AND A RADIUS OF 9.600 METERS (31.50 FEET) FOR AN ARC DISTANCE OF 7.700 METERS (25.26 FEET) TO A POINT OF TANGENCY; THENCE S 35°37'20" E FOR A DISTANCE OF 4.102 METERS (13.46 FEET); THENCE S 39°04'28" W FOR A DISTANCE OF 1.570 METERS (5.15 FEET); THENCE S 51°06'50" E FOR A DISTANCE OF 13.735 METERS (45.06 FEET); THENCE S 89°37'01" W FOR A DISTANCE OF 3.440 METERS (11.29 FEET) TO THE POINT OF BEGINNING.

**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.**

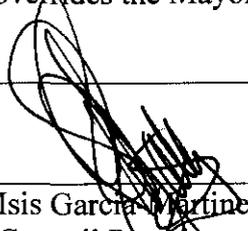
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or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

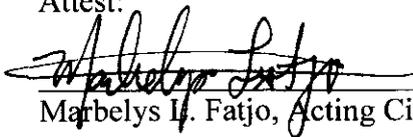
PASSED and ADOPTED this \_\_\_ day of \_\_\_\_\_, 2013.

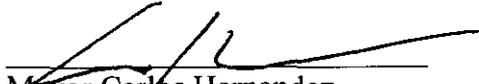
THE FOREGOING ORDINANCE  
OF THE CITY OF HIALEAH WAS  
PUBLISHED IN ACCORDANCE  
WITH THE PROVISIONS OF  
FLORIDA STATUTE 166.041  
PRIOR TO FINAL READING.

  
\_\_\_\_\_  
Isis Garcia Martinez  
Council President

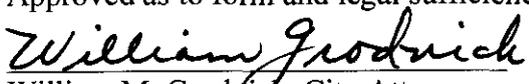
Attest:

Approved on this 15 day of Feb, 2013.

  
\_\_\_\_\_  
Marbelys I. Fatjo, Acting City Clerk

  
\_\_\_\_\_  
Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

  
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William M. Grodnick, City Attorney