

**ORDINANCE NO. 2018-061**

ORDINANCE GRANTING A VARIANCE PERMIT TO ALLOW A MECHANICAL CARWASH CONTIGUOUS TO A RESIDENTIAL ZONING DISTRICT, WHERE MECHANICAL CARWASHES ARE NOT ALLOWED CONTIGUOUS TO A RESIDENTIAL ZONING DISTRICT; AND ALLOW THE NORTH APERTURE OF THE FACILITY ADJACENT TO A RESIDENTIAL ZONING DISTRICT, WHERE SUCH APERTURE IS NOT ALLOWED TO FACE ADJACENT TO A RESIDENTIAL ZONING DISTRICT; CONTRA TO HIALEAH CODE OF ORDINANCES §§ 98-1898(4) AND (5); PROPERTY ZONED C-3 (EXTENDED LIBERAL COMMERCIAL DISTRICT); **PROPERTY LOCATED AT 795 HIALEAH DRIVE, HIALEAH FLORIDA.** REPEALING ALL 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 June 13, 2018, recommended approval of this ordinance; and

**WHEREAS,** pursuant to § 98-1898 (5) Hialeah Code of Ordinances, the developer shall build a concrete wall no less than 55 feet across and 6 feet in height within the landscape buffer adjacent to E 1<sup>st</sup> Place, with the wall to remain blank, no signs, and in harmony with adjacent residential district; and

**WHEREAS,** the developer shall ensure that queuing in entering the carwash on the south side shall be ameliorated.

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 a mechanical carwash contiguous to a residential zoning district, where mechanical carwashes are not allowed contiguous to a residential zoning district, and allow the north aperture of the facility adjacent to a residential zoning district, where such aperture is not allowed to face adjacent to a residential zoning district, contra to Hialeah Code of Ordinances §§ 98-1898(4) and (5) that provide in relevant part: “Mechanical carwashes. Mechanical carwash facilities shall be permitted in C-2, C-3 and C-4 zoning districts for automobiles, minivans, SUVs, pickup and sports utility trucks, whether freestanding or ancillary in use; provided, that they comply with the following: (4) The location of the facility shall not be abutting or contiguous to a residential zoning district. (5) The placement of the aperture of the facility shall not face adjacent (separated by a right-of-way) to a residential zoning district.” Property located at 795 Hialeah Drive, Hialeah, Florida, and legally described as follows:

Lots 8, 9, 10, 11 and 12, in Block 25, of THIRD ADDITION TO ESSEX VILLAGE, according to the Plat thereof, as recorded in Plat Book 47, at Page 94, of the Public Records of Miami-Dade County, Florida.

**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.

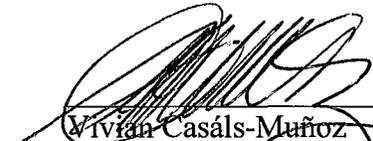
**Section 4: Severability Clause.**

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.

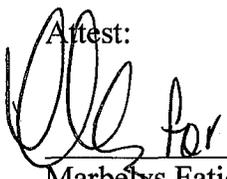
**Section 5: Effective Date.**

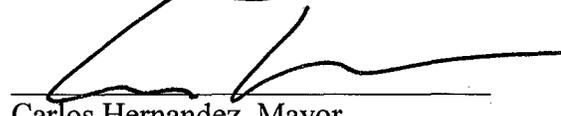
This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 14 day of August, 2018.

  
Vivian Casáls-Muñoz  
Council President

Approved on this 20 day of August, 2018.

Attest:  
  
Marbelys Fatjo, City Clerk

  
Carlos Hernandez, Mayor

Approved as to form and legal sufficiency:  
  
Lorena E. Bravo, City Attorney

Ordinance was adopted by a 5-0-2 vote with Councilmembers, Zogby, Lozano, Casáls-Munoz, Hernandez, and Cue-Fuente voting "Yes" and with Councilmembers Caragol and Garcia-Martinez absent.