

**ORDINANCE NO** 2018-078

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 78 ENTITLED "SOLID WASTE", ARTICLE IV. SUPPLEMENTAL REGULATIONS FOR GARBAGE, WASTE AND RECYCLING DUMPSTERS, OF THE CODE OF ORDINANCES OF THE CITY OF HIALEAH, AND IN PARTICULAR, REVISING SECTION 78-107, "APPLICABILITY", TO PROVIDE FOR AN ADMINISTRATIVE WAIVER OF THE DUMPSTER ENCLOSURE REQUIREMENTS; AND FURTHER ADDING A NEW SECTION, HIALEAH CODE § 78-111 ENTITLED "ADMINISTRATIVE WAIVER OF DUMPSTER ENCLOSURE REQUIREMENTS" CREATING A PROCEDURE AND SETTING STANDARDS FOR THE APPROVAL OF A WAIVER; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the purpose and intent of this ordinance is for the health, safety and welfare, order, aesthetics, good governance and proper regulation of the City and its residents; and

**WHEREAS**, the specific purpose and intent of this ordinance is to provide a waiver or permit to comply with the City of Hialeah Code of Ordinances dumpster regulations when due to physical characteristics and limitations on the property, the owner cannot comply with the dumpster enclosure requirements.

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

**Section 1:** Chapter 78 entitled "Solid Waste", Article IV. Supplemental Regulations for Garbage, Waste and Recycling Dumpsters of the Code of Ordinances of the City of Hialeah, Florida is hereby amended to read as follows:

**Chapter 78**

**SOLID WASTE**

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**ARTICLE IV. - SUPPLEMENTAL REGULATIONS FOR GARBAGE, WASTE AND RECYCLING DUMPSTERS**

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**Sec. 78-107. – Applicability.**

The provisions of this article shall apply to all new construction for properties zoned multiple-family residential; and properties zoned commercial or properties zoned industrial that utilize dumpsters for garbage collection, waste collection or recycling. The provisions of this article shall also apply for buildings that are being converted into condominiums and for renovations that require the issuance of a building permit. The property owner of an existing nonconforming property shall have 24 months to bring the property into compliance with the provisions of this article, unless the property owner applies for and obtains an administrative waiver of the dumpster enclosure requirements pursuant to section 78-111.

(Ord. No. 2007-019, § 1, 2-13-2007)

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**Sec. 78-111. – Administrative waiver of dumpster enclosure requirements.**

The planning and zoning official can administratively waive the dumpster enclosure requirements provided for in this article. Such a waiver shall be predicated on existing physical characteristics of the property, including permitted site development features existing prior to the adoption of the dumpster enclosure regulations. This waiver shall not be available to new development or properties undergoing re-development. The property owner shall apply for an administrative waiver by completing and application on a form provided by the planning and zoning department together with a fee of \$100.00 and submittal of a plot plan or survey depicting the actual conditions on the property. The planning and zoning official, after a determination that the property cannot comply with the requirements of this article, may grant and administrative waiver conditioned upon compliance with an approved plan for the purpose of mitigating site specific conditions resulting from the lack of a dumpster enclosure. When considering

an application for a waiver, the planning and zoning official shall grant the waiver if the interests advanced by requiring the dumpster enclosure are outweighed by the impacts on the site created by the erection of the enclosure. In granting a waiver, the planning and zoning official may consider the following factors (1) any hardship created by the physical characteristics of the site; (2) parking conditions on the on-site and off-site, including any parking deficit resulting from the erection of the enclosure, and any impacts on traffic circulation or flow; (3) visibility of, accumulation or overflow of waste and any other concerns involving sanitation; (4) aesthetic benefits of an enclosure; and (5) any other condition on the property that assists the planning and zoning official to evaluate the application. A mitigation plan shall provide for all necessary site improvements to lessen the impacts from the lack of a dumpster enclosure.

**Secs. 78-1112—78-125. - Reserved.**

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**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 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.**

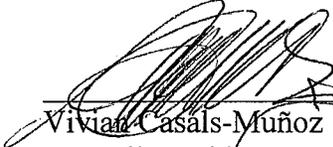
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or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

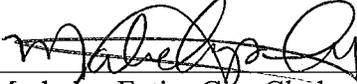
PASSED AND ADOPTED this 11 day of September, 2018.

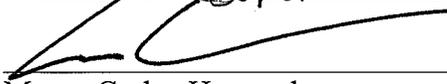
THE FOREGOING ORDINANCE  
OF THE CITY OF HIALEAH WAS  
PUBLISHED IN ACCORDANCE  
WITH THE PROVISIONS OF  
FLORIDA STATUTE 166.041  
PRIOR TO FINAL READING.

  
Vivian Casals-Muñoz  
Council President

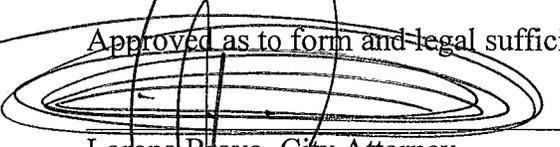
Attest:

Approved on this 19 day of September, 2018.

  
Marbelys Fatjo, City Clerk

  
Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

  
Lorena Bravo, City Attorney

Strikethrough indicates deletion. Underline indicates addition.

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Ordinance was adopted by a 7-0 vote with Councilmembers, Zogby, Lozano, Casals-Munoz, Hernandez, Cue-Fuente, Caragol and Garcia-Martinez voting "Yes".