ORDINANCE NO. 13-19

REZONING FROM R-1 (ONE FAMILY DISTRICT) TO P (PARKING DISTRICT) ACCORDING TO A SITE PLAN PREPARED BY TIRSO P. MARTINEZ, R.A. AND SUBMITTED WITH THE APPLICATION AND GRANTING A VARIANCE PERMIT TO ALLOW A LANDSCAPE BUFFER OF 4 FEET ALONG THE STREET FRONTAGE, CONTRA TO HIALEAH CODE §98-1617, ON PROPERTY ZONED P (PARKING DISTRICT). **PROPERTY LOCATED AT 374 WEST 35 STREET, 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 February 13, 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 rezoned from R-1 (One Family District) to P (Parking District) according to a site plan prepared by Tirso P. Martinez, R.A. and submitted with the application and granting a variance permit to allow a landscape buffer of 4 feet along the street frontage, contra to Hialeah Code §98-1617, which provides in pertinent part: "In approving a site plan, the city shall consider appropriate setbacks and landscape buffer...", the minimum standards in the City of Hialeah Landscape Manual being "(D)(7) Parking lot buffers. All parking lots adjacent to a right-of-way or private street shall be screened by a continuous planting and/or three

(3)-foot high wall within a seven (7)-foot landscaped strip incorporating said planting and/or wall on private property.", on property zoned P (Parking District). The property is located at 374 West 35 Street, Hialeah, Miami-Dade County, Florida and legally described as follows:

> LOT 18, IN BLOCK 5, OF FIRST ADDITION TO CAROLE ANNE PARK, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 52, PAGE 36, 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All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.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 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: 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 12 day of March, 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 14 day of March, 2013.

Marbelys Fatjo, Acting City Clerk

Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

William M. Grodnick, City Attorney

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Ordinance was adopted by a unanimous vote with Councilmembers, Caragol, Casals-Muñoz, Cue-Fuente, Garcia-Martinez, Gonzalez, Hernandez and Lozano voting "Yes".