ORDINANCE NO. 13-27

ORDINANCE GRANTING A VARIANCE PERMIT TO ALLOW A TOTAL OF 39 PARKING SPACES, WHERE 78 PARKING SPACES ARE REQUIRED AND TO WAIVE PORTIONS OF THE LANDSCAPE MANUAL REQUIRING A SEVEN FOOT LANDSCAPED AREA BETWEEN THE OFF-STREET PARKING AND THE RIGHT-OF-WAY, REQUIRING ONE TREE FOR EVERY 35 LINEAR FEET OF ROADWAY ABUTTING THE PROPERTY AND REQUIRING ONE TREE PER 80 SQUARE FEET OF INTERIOR LANDSCAPED AREA, CONTRA TO HIALEAH CODE §§ 98-2189(15) AND 98-2233. **PROPERTY LOCATED AT 620 WEST 27 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 March 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 granted a variance permit to allow a total of 39 parking spaces, where 78 parking spaces are required and to waive portions of the landscape manual requiring a seven foot landscaped area between the off-street parking and the right-of-way, requiring one tree for every 35 linear feet of roadway abutting the property and requiring one tree per 80 square feet of interior landscaped area, contra to Hialeah Code §§ 98-2189(15) and 98-2233, which provide respectively in pertinent part: " One parking space for each 1,000 square feet, or fractional part thereof, of gross floor area." and "The City Council, by ordinance, may waive the minimum landscaping requirements of the Miami-Dade County Landscape Manual" as modified and supplemented by the city landscape manual which provides at C(2) "Street tree size

and spacing...Street trees shall have a clear trunk of four feet, and overall height of twelve feet and a minimum caliper of three inches, and a minimum of six feet of canopy at the time of planting, and shall be provided along all roadways at a maximum average spacing of thirty-five feet on center, except as otherwise provided in the Hialeah Code and as provided herein.", which provides at 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.", and which provides at D(8) Landscaped areas in parking lots. Ten (10) square feet of landscaped area for each parking space shall be provided within a parking lot. In order to maximize the distribution of shade, trees shall be planted throughout the interior of the parking lot at a minimum density of one (1) tree per one eighty (80) square feet of landscaped area, exclusive o parking lot buffers." Property located at 620 West 27 Street, Hialeah, Miami-Dade County, Florida, zoned M-1 (Industrial District), and legally described as follows:

> THE WEST 200 FEET OF THE EAST 357 FEET OF THE NORTH 345 FEET OF TRACT A, LESS THE WEST 55.014 FEET OF THE SOUTH 69.887 FEET THEREOF AND THE WEST 200 FEET OF THE EAST 357 FEET OF TRACT B, OF HIALEAH INDUSTRIAL DISTRICT, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 62, AT PAGE 75, 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 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: 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 09 day of April, 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 12 day of April, 2013.

Marbelys Fatjo, Acting City Clerk

Mayor Carlos Hernandez

Approved as to legal sufficiency and as to form:

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".