CFN 2013R0686526
OR Bk 28796 Pgs 1979 - 1983; (5pgs)
RECORDED 08/29/2013 09:08:14
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

Prepared by and return to:
City of Hialeah
Planning Division
501 Palm Avenue, Second Floor
Hialeah, FL 33010

DECLARATION OF RESTRICTIVE COVENANTS

I, Giovanna Barrie, District Manager and intending to legally bind GameStop, Inc. DBA GameStop #474, being the tenant of lands described as

A portion of Lots 9 through and including Lot 11, in Block 112, of Fifth Addition to Palm Springs Subdivision, according to the Plat thereof, as recorded in Plat Book 65, at Page 33, of the Public Records of Miami-Dade County, Florida, together with a portion of Leghorn Ranches, according to the Plat thereof, as recorded in Plat Book 30, at Page 58, of the Public Records of Miami-Dade County, Florida.

The street property address is 1001 West 49 Street, Suit 3; Hialeah, Florida 33012.

The folio number is 04-3001-051-0020.

make the following Declaration of Restrictive Covenants covering and running with the above property, specifying that this restriction during its lifetime shall be for the benefit of and a limitation upon all present and future owners of the real property described above, in favor of and enforceable by the City of Hialeah, Florida. The undersigned makes these covenants in connection with the operation of a business store at the above described location.

In connection therewith, the undersigned covenants, represents and agrees as follows:

1. The only secondhand goods permitted to be purchased, traded or consigned at the premises shall be used or previously owned entertainment video game consoles, including handheld game consoles, such as but not limited to PlayStation, Xbox, Gameboy, PSP or Nintendo DS, video games and accessories used with these game consoles, and smart phones.

2. This covenant is intended and shall constitute a restrictive covenant concerning the use, enjoyment, and title to the above-described property and shall constitute a covenant running with the land and may be recorded in the Public Records of Miami-Dade County, Florida. This covenant shall remain in full force and effect and shall be binding upon the undersigned, its (their) heirs, successors and assigns until such time as the same is modified, amended or released and may only be modified, amended or released by a written instrument executed by the then owner having fee simple title to the property affected or to be affected by such modification, amendment, or release; provided, however, the same is also approved by the City Council and the Mayor of the City of Hialeah, or its successors, by resolution, upon advertised notice, or by ordinance if the covenant is adopted by ordinance or as otherwise provided in Hialeah Charter.

3. Where construction has occurred on said property described herein, pursuant to a permit issued by the City of Hialeah, and inspection made and approval of occupancy given by the City, the same shall create a conclusive presumption that the improvements thus constructed comply with the intent and spirit of the restrictions referenced herein and this Declaration of Restrictive Covenants shall not be construed as clouding title of any of said property on which such development has occurred.

DECLARATION OF RESTRICTIVE COVENANTS

IN WITNESS WHEREOF, We have hereunto set out hands and seals at Miami, Florida, this 16 day of July 2013.
(location)

Name of Corporation: GameStop, Inc. DBA GameStop #474

Signed, sealed and delivered in the presence of:

Witness
Typed/Printed Name MAITE LUQUE

Witness
Typed/Printed Name Veronica Sagastume

By: Giovanna C. Barcia

Giovanna Barcia / District Mgr.
Print Name and Title

Corporate Seal

STATE OF FLORIDA
COUNTY OF MIAMI DADE

The foregoing instrument was acknowledged before me on this 16 day of JULY 2013 by _____ as _____, and _____ as Secretary, of
(Name of Officer or Agent) (Name of Secretary)
_____, a Florida limited partnership.
(Name of Corporation) (State or Place of Incorporation)
They are personally known to me or have produced the following _____ as identification and did (did not) take an oath and who attest to the truth and accuracy of the representations contained herein.

This document was prepared by:
MARCIA JAMES
Name

13420 SW 120 St
Street

MIAMI FL 33186
City State Zip Code

Signature of Notary Public

MARCIA JAMES
Name of notary typed, printed, or stamped
Commission Number:

MARCIA JAMES
Notary Public - State of Florida
My Comm. Expires Dec 16, 2016
Commission # EE 858610
Bonded Through National Notary Assn.

ORDINANCE NO. 2013-47

ORDINANCE GRANTING A VARIANCE PERMIT TO ALLOW A DISTANCE OF 500 FEET FROM AN EXISTING SECONDHAND DEALER, WHERE A 2,500-FOOT DISTANCE RADIUS IS REQUIRED, CONTRA TO HIALEAH CODE §§ 98-1111(21). **PROPERTY LOCATED AT 1001 WEST 49 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 June 12, 2013 recommended approval of this ordinance; and

WHEREAS, the applicant proffered a Declaration of Restrictive Covenants limiting secondhand transactions to electronic game systems, games and accessories only, to which the City accepts.

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 distance of 400 feet from an existing secondhand dealer, where a 2,500 foot distance radius is required, contra to Hialeah Code §98-1111(21), which provides in pertinent part: "Secondhand (merchandise) dealers and precious metals dealers – Distance separation requirements. Where either a secondhand (merchandise) dealer, as defined in article VIII of chapter 18, or precious metals dealer, as defined in article VII of chapter 18, is a permitted use, it shall not be located within a 2,500-foot radius of any other secondhand (merchandise) dealer or precious metal dealer use." Property located at 1001

West 49 Street, Suite 3, Hialeah, Miami-Dade County, Florida, zoned C-2 (Liberal Retail Commercial District), and legally described as follows:

> A PORTION OF LOTS 9 THROUGH AND INCLUDING 11, BLOCK 112, FIFTH ADDITION TO PALM SPRINGS SUBDIVISION SECTION THREE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 65, PAGE 33, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA TOGETHER WITH A PORTION OF LEGHORN RANCHES, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 30, PAGE 58, 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 13 day of August, 2013.

Isis Garcia-Martinez
Council President

Attest:

Approved on this 16 day of August, 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 6-0-1 vote with Councilmembers, Caragol, Cue-Fuente, Garcia-Martinez, Gonzalez, Hernandez and Lozano voting "Yes", Councilmember Casals-Munoz absent.