ORDINANCE NO. 11-16

ORDINANCE GRANTING A VARIANCE PERMIT TO ALLOW SIX OCCUPATIONAL LICENSES, WHERE NO MORE THAN TWO ARE PERMITTED, CONTRA TO HIALEAH CODE §98-778(2), ON PROPERTY ZONED RO (RESIDENTIAL OFFICE DISTRICT). **PROPERTY LOCATED AT 705 EAST 8 AVENUE, 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 23, 2011, 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 six occupational licenses, where no more than two are permitted, contra to Hialeah Code §98-778(2), which provides in pertinent part: "No more than two occupational licenses shall be issued for each address...", on property zoned RO (Residential Office District). The property is located at 705 East 8 Avenue, Hialeah, Miami-Dade County, Florida and legally described as follows:

> LOT 4, IN BLOCK 37, OF SECTION FIVE SUN-TAN VILLAGE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 53, PAGE 12, 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All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.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 22nd day of March, 2011.

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

Carlos Hernandez
Council President

Attest: Approved on this 25 day of March, 2011.

David Concepcion, Acting City Clerk

Mayor Julio Robaina

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 Yedra voting "Yes".

CFN 2011R0233683
OR Bk 27649 Pgs 3114 - 3115; (2pgs)
RECORDED 04/12/2011 10:38:04
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) (WE), Rafael Garcia, individually, and on behalf of Mercy Properties, L.L.C., a Florida limited liability company, as its sole managing member being duly authorized and intending to legally bind Mercy Properties, LLC, being the owner(s) of lands described herein:

Lot 4, Block 37, of Section Five Sun-Tan Village, according to the plat thereof, as recorded in Plat Book 53, at Page 12, of the Public Records of Miami-Dade County, Florida.

Property located at **705 East 8 Avenue, Hialeah, Florida.**

The folio number is **04-3117-005-1810**

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.

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

1. There will be an occupational license issued to each of six licensed physicians or professionals to operate a private professional practice on an individual basis on the property. Each of the licensed physicians or professional practices will be operated by one professional with supporting staff. No partnerships, associations, independent contractors, employment of associate professionals or additional occupations or professions requiring an occupational license will be permitted such that there are only six occupational licenses in total issued at the property.

2. The professional offices will be open for business from Monday through Friday between the hours of 8:00 A.M. and 5:00 P.M. and Saturday between 8:00 A.M. and 5:00 P.M. only. There will be no more than two professional offices open for business on any one day.

3. Parking on the swale area is prohibited and it shall be the owners' responsibility to enforce this restriction. No MRI or other specialty service mobile units or vehicles are permitted in the parking lot at any time.

4. 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.

O.d. 11-12

5. 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.

IN WITNESS WHEREOF, We have hereunto set out hands and seals at Miami-Dade County, Florida this 17 day of March, 2011.
(location)

Attest: _____
Secretary:
Typed/Printed Name

Name of Corporation: Mercy Properties, LLC

Signed, sealed and delivered in the presence of:

By: _____
~~President~~: Rafael Garcia, Manager
Typed/Printed Name

Witness Javier L. Vazquez
Typed/Printed Name
Clara Martinez
Witness
Typed/Printed Name CLARA MARTINEZ

Corporate Seal

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me on this 17 day of March 2011 by Rafael Garcia as ~~President~~ Manager, and _____ as Secretary, of
(Name of Officer or Agent) (Name of Secretary)
Mercy Properties LLC corporation, a Florida limited liability company ~~corporation~~.
(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:

_____
Name

_____
Street

_____

Clara Martinez
Signature of Notary Public

CLARA MARTINEZ
Name of notary typed, printed, or stamped
Commission Number:

Notary Public State of Florida
Clara Martinez
My Commission DD784587
Expires 05/01/2012