ORDINANCE NO. 10-09

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 74 ENTITLED "SIGNS", ARTICLE I. IN GENERAL, OF THE CODE OF ORDINANCES TO PROVIDE A DEFINITION FOR LED SIGNS AND AMENDING ARTICLE III. REGULATIONS, DIVISION 1. GENERALLY, BY ADDING A NEW SECTION, HIALEAH CODE § 74-147 ENTITLED "LED SIGNS" PROVIDING REGULATIONS FOR LED SIGNS IN LIMITED GEOGRAPHIC AREAS WITHIN THE CITY;. 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 Planning and Zoning Board at its meeting of January 13, 2010 recommended approval of this ordinance; and

WHEREAS, the general purpose and intent of this ordinance is for the health, safety, welfare, aesthetics, order, and proper regulation and administration of the City of Hialeah and its residents; and

WHEREAS, the specific purpose and intent of this ordinance is to provide sign regulations for LED signs, which is technology that was not contemplated at the time the comprehensive City sign regulations were enacted.

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

Section 1: Chapter 74 entitled "Signs", Article I. In General, of the Code of Ordinances of the City of Hialeah, Florida is hereby amended, by revising Hialeah Code § 74-1 entitled "Definitions", to read as follows:

Chapter 74

SIGNS

* * *

ARTICLE 1. IN GENERAL

Sec. 74-1. Definitions.

The following words, forms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

* * *

Internally illuminated sign means any sign having characters, designs, logos or outlines illuminated by lights within the sign or luminous tubes designated for that purpose.

LED sign means any sign made primarily of Light Emitting Diodes (LED). A full color LED sign means a sign that uses red, green and blue (RGB) colors comprising a "pixel" and which is similar to a computer monitor or television that displays colors to achieve high impact resolution or video. A single color or grayscale LED sign means any sign where the pixels comprise a single color, usually red or amber. Grayscale describes the ability of individual LEDs to vary in brightness to create shaded pictures or graphics. A nit is a unit of measure that measures the light emitted from an LED device.

Monument sign means a freestanding structure containing a sign face, supported solely by its own ground-mounted base or two pole-like supports not to exceed 18 inches height that is not attached or affixed in any way to another structure.

* * *

Section 1: Chapter 74 entitled "Signs", Article III. Regulations, Division 1. Generally, of the Code of Ordinances of the City of Hialeah, Florida is hereby amended, by adding a new section, Hialeah Code § 74-149 entitled "LED signs", to read as follows:

Chapter 74

SIGNS

* * *

ARTICLE II. REGULATIONS

DIVISION 1. GENERALLY

* * *

Sec. 74-149. LED signs.

(a) *Purpose.* The purpose of LED regulations as set forth herein is to provide an alternative to traditional signage that will contribute to more efficient energy use and to reduce visual sign clutter and the number of free-standing signs. The use of LED signs will allow a property or business owner to consolidate advertising using a single sign instead of relying on multiple signs, banners or flags on the property or premises.

(b) *Geographic area.* The LED regulations are limited to a geographic area comprising of three distinct areas: (1) properties fronting West 49 Street, from the west side of West 4 Avenue to West 20 Avenue; (2) properties fronting West 16 Avenue, from Okeechobee Road to West 49 Street; and (3) properties fronting Okeechobee Road, on the northern side, from West 16 Avenue to West 20 Avenue.

(c) *Permitted signs.* Only on property zoned industrial or on property zoned commercial, an LED sign is allowed on a property having a frontage of at least 100 feet on a public right-of-way, subject to the regulations set forth in this section. Only signs advertising the business located on the property where the sign is located shall be permitted. Third-party advertising is prohibited.

(d) *Maximum number.* Only one free-standing LED sign or one LED wall sign is allowed for each property. If a free-standing LED sign is located on a property, all existing pole, pylon or monument signs on the same property shall be removed before installing a proposed free-standing LED sign. If a free-standing LED sign exists on a property, no pole, pylon or monument signs shall be installed on the same property in the future. If an LED wall sign is located on a property, it is not required to remove all existing pole, pylon or monument signs on the same property.

(e) *Distance from residential-zoned properties.* An LED sign shall be placed at a distance no less than a 300-foot radius from the property lines of a residential-zoned property.

(f) *Hours of operation.* The maximum hours of operation of an LED sign shall be limited from 6:00 a.m. to 12:00 a.m. (midnight).

(g) *Types of signs.*

(1) Monument signs.

a. LED displays allowed. Full color, single color and grayscale LED displays are permitted. One LED display is allowed within the sign.

b. Maximum area. The total maximum sign area, including the sign face and structure, is 48 square feet.

c. Maximum height. The maximum height shall be six feet from the street grade to the top of the sign structure except for curved designs where the top of the arch shall extend to 7.5 feet in height; provided that the extended height satisfies line-of-sight requirements.

(2) Pylon signs.

a. LED displays allowed. Single color and grayscale LED displays are permitted for new pylon signs or existing pylon signs that conform to current sign regulations. LED displays on existing pylon

signs may only be approved by a variance if the existing sign is a legal nonconforming sign or a legal nonconforming pole sign that is converted to a pylon sign; provided, however, that sign structure is screened with decorative aluminum or natural materials such as granite and includes enhanced landscaping. If a legal nonconforming pylon sign or legal nonconforming pole sign is replaced by a monument sign or wall sign on a property with a frontage of more than 50 feet and otherwise complies with the requirements of this section, then the LED monument sign shall be allowed without a required variance.

b. Maximum area. The maximum sign area allowed, including the sign face and structure, is 120 square feet.

c. Maximum height. The maximum height shall be 20 feet from the street grade to the top of the sign structure. The height of the LED display itself shall not exceed 15 feet.

(3). Wall signs.

a. LED displays allowed. Single color and grayscale LED displays are permitted for new wall signs or existing pylon signs that conform to current sign regulations. LED displays on existing wall signs may only be approved by a variance if the existing sign is a legal nonconforming sign.

b. Maximum area. The maximum sign area allowed is the same as wall signs in the HDUC zoning district.

c. Maximum height. The maximum height is the same as wall signs in the HDUC zoning district.

(h) *Illumination, technical and operational requirements.*

(1) All LED displays shall automatically adjust its intensity of illumination based on the natural light conditions occurring at the time of adjustment.

(2) All LED displays shall contain a default mechanism that freezes the image in one position in the event of a malfunction. The sign owner or operator shall respond to a malfunction within one hour of city notification of the malfunction.

(3) Change of messages shall occur simultaneously on the entire sign face. Each message shall be displayed for a duration of no less than eight seconds in time and any change of message must be occur within two seconds in time.

(i) *Issuance of permits.*

(1) Building and electrical permits are required. Any LED sign facing a state road shall comply with state department of transportation sign regulations and requirements. The contractor or property owner shall provide written consent from the state department of transportation for the installation of the sign prior to the city issuing its permits for the sign.

(2) Prior to the issuance of permits for a sign, the sign contractor or property owner shall submit to the city data relating to glare and brightness of the LED display, measured in nits, that is usually is provided by the manufacturer.

Section 3: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4: 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 5: 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 6: 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 7: Effective Date.

This ordinance shall become effective when passed by the City Council and when signed by the Mayor or at the next regularly scheduled City Council meeting, if the

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Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED AND ADOPTED this 9th day of February, 2010.

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 11 day of February, 2010.

Rafael E. Granado, City Clerk

Mayor Julio Robaina

Approved as to form and legal sufficiency:

William M. Grodnick, City Attorney

~~Strikethrough~~ indicates deletion. Underline indicates addition.

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