**ORDINANCE NO. 09-94**

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 98 ENTITLED "ZONING", ARTICLE VI. SUPPLEMENTARY DISTRICT REGULATIONS, DIVISION 6. DENSITY, OF THE CODE OF ORDINANCES AND IN PARTICULAR, REVISING HIALEAH CODE § 98-2056 ENTITLED "RESIDENTIAL DENSITY AND OPEN SPACE REQUIREMENTS" TO INCREASE THE MAXIMUM PERCENTAGE OF LOT COVERAGE FOR THE PRINCIPAL RESIDENTIAL STRUCTURE FROM 40% TO 50% TO BE CONSISTENT WITH TOWNHOUSE ZONING DISTRICT REGULATIONS; 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 October 28, 2009 recommended approval of this ordinance; and

**WHEREAS,** the general purpose and intent of this ordinance is to provide proper zoning regulations in the best interest of the health, safety, welfare and aesthetics of the community and the proper administration of its government; and

**WHEREAS,** the specific intent and purpose of this ordinance is to revise the lot coverage and open space regulations for townhouse development to be consistent with the zoning regulations for the R-4 Townhouses Zoning District.

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

**Section 1:** Chapter 98 entitled "Zoning", Article VI. Supplementary District Regulations, Division 6. Density, of the Code of Ordinances of the City of Hialeah, Florida is hereby amended, by revising Hialeah Code § 98-2056 entitled "Residential Density and Open Space Requirements," to read as follows:

# Chapter 98

ZONING

* * *

## ARTICLE VI. SUPPLEMENTARY DISTRICT REGULATIONS

* * *

DIVISION 6. DENSITY

**Sec. 98-2056. Residential density and open space requirements.**

* * *

(b) The net area of a parcel shall be that area, expressed in acres or fractions of an acre, of land zoned from residential use less rights-of-way for streets and thoroughfares. In addition, every residential development except R-1 and R-4 and R-3 when development as R-4 shall comply with the following open space and lot coverage requirements:

(1) A minimum of 30 percent of the net residential land area shall be maintained in landscaped open space, which space may include recreation areas, swimming pools, and setback areas.

(2) A maximum of 30 percent of the net residential land area may be covered with or occupied by the principal residential structure.

(3) A maximum of 40 percent of the net residential land area may be covered with open parking areas, vehicular drives, accessory and service structures and devises.

~~(4)~~(c) For R-4 zoning or R-3 zoning when developed as R-4, the maximum lot coverage of the net residential land area that may be covered with or occupied by the principal

residential structure shall not exceed 40~~3~~50 percent.

* * *

**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: 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 5: 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 6: 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 24th day of November, 2009.

Carlos Hernandez
Council President

Attest:

Rafael E. Granado, City Clerk

Approved on this 30 day of November, 2009.

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 6-0 vote with Councilmembers, Caragol, Casals-Muñoz, Cue, Gonzalez, Hernandez, Yedra voting "Yes", Councilmember Garcia-Martinez absent.