

ORDINANCE NO. 2019-042

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 98 ENTITLED "ZONING", ARTICLE V. ZONING DISTRICT REGULATIONS, DIVISION 15 ENTITLED "C-1 RESTRICTED RETAIL COMMERCIAL DISTRICT" OF THE CODE OF ORDINANCES OF THE CITY OF HIALEAH, AND IN PARTICULAR REVISING SECTION 98-1066 ENTITLED "PERMITTED USES" TO REMOVE MANUAL CARWASHES AS A PERMITTED USE, SECTION 98-1067 ENTITLED "PROHIBITED USES" TO INCLUDE MANUAL CARWASHES AS A PROHIBITED USE; AND FURTHER AMENDING ARTICLE VI. SUPPLEMENTARY DISTRICT REGULATIONS, DIVISION 5. ENTITLED "USES", SUBDIVISION VI ENTITLED "CARWASHES", AND IN PARTICULAR, REVISING SECTION 98-1897 ENTITLED "MANUAL CARWASHES", TO PROHIBIT MANUAL CARWASHES TO OPERATE WITHIN THE CITY, AND ALLOW MANUAL CARWASHES LAWFULLY ESTABLISHED PRIOR TO ADOPTION OF THIS ORDINANCE TO OPERATE IN C-1 AND C-2 ZONING DISTRICTS AS A NON-CONFORMING USE, PROVIDED THAT SAID MANUAL CARWASHES CONTINUE TO COMPLY WITH THE CITY REQUIREMENTS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board at its meeting of April 24, 2019 recommended approval of this ordinance;

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 purpose and intent of this ordinance is to avoid the proliferation of code violations, prevent the creation of unsanitary conditions due to the improper disposition of waste and water, to resolve the issues created by insufficient and inadequate parking, traffic flow and circulation patterns all caused and related to the operation of free standing individual manual carwashes, and to preserve and promote a community where all properties are maintained in a fashion that emphasizes an aesthetically pleasing City, that encourages community pride, commercial growth, preserves integrity, ensures a comfortable, safe and clean environment, and protects the public's health and wellbeing.

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” of the City of Hialeah, and in particular Sections 98-1066 entitled “Permitted Uses”, 98-1067 entitled “Prohibited uses”, and 98-1897 entitled “Manual carwashes” are hereby amended to read as follows:

Chapter 98

ZONING

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ARTICLE V. ZONING DISTRICT REGULATIONS

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**DIVISION 15. - C-1 RESTRICTED RETAIL
COMMERCIAL DISTRICT**

Sec. 98-1066. - Permitted uses.

In the C-1 restricted retail commercial district, the permitted uses for land, buildings and other improvements are subject to the general conditions requiring that all storage of materials and products and all operations of work of every character are carried on entirely within the enclosing walls and under the roof of a building and the following:

- (1) All B-1 highly restricted retail district uses.
- (2) Antique stores.
- (3) Awards and trophies stores.
- (4) Automotive new parts and equipment or accessory stores (salesroom only).
- (5) *Automotive tires (new)*. Sales, service or installation, but no recapping shall be allowed on the premises; provided, however, discarded, abandoned or used tires, in connection with automotive tire sales, installation and ancillary services, shall be stored only within the

enclosed walls and shall be promptly disposed of and removed according to city, county, state and/or federal law or guidelines.

- (6) *Coin-operated or self-service laundries.* Establishments engaged in operating facilities with coin-operated or similar self-service laundry equipment for customer use on the premises. This does not include dry cleaning services or facilities.
- (7) *Copy services or quick printing.* Establishments engaged in photocopying documents, short-run printing, receiving documents in electronic format and directly duplicating, formatting, colorizing and otherwise modifying the original document to improve presentation with fast turnaround times.
- (8) *Full-service restaurants.* Establishments engaged in providing food services where customers order and are served while seated and pay after eating.
- (9) Grocery stores and supermarkets.
- ~~(10) *Manual carwashes.* Establishments engaged in manually cleaning, washing, and/or waxing personal automotive vehicles such as passenger cars, trucks and vans. This does not include washing or waxing commercial vehicles. The permitted use shall be based on submission of an approved site plan. Sufficient and adequate parking, traffic flow and circulation patterns and disposition of waste water shall be given great weight in the determination of whether or not a site plan is approved.~~
- (110) *Motion picture theaters.* Establishments engaged in exhibiting motion pictures or videos. This does not include theaters showing adult films.
- (121) *Vocational and technical schools.* Establishments engaged in offering vocational and technical training in a variety of subjects and trades often leading to job-specific certification. Examples of vocational and technical schools include, but are not limited to, the

following: apprenticeship training programs; business and secretarial schools; computer training schools; cosmetology and barber schools; electronic equipment repair training and bartending schools. The permitted use shall be based on submission of an approved site plan. Sufficient and adequate parking, traffic flow and circulation patterns shall be given great weight in the determination of whether or not a site plan is approved.

(132) Veterinary clinics.

(143) The city may use the North American Industry Classification System (NAICS) as a primary reference for interpreting the nature of the foregoing uses or similar permitted uses.

Sec. 98-1067. - Prohibited uses.

The following uses are prohibited:

(1) Residential uses.

(2) Dry cleaning.

(3) Flower, fruit, plant and tree nurseries and garden centers.

(4) *Home center stores.* Establishments engaged in selling lumber; plumbing, electrical and/or hardware materials or supplies; lawn and garden materials or supplies; trees, plants, flowers and/or seeds; and other home repair and improvement materials and supplies similar in character.

(5) Manual carwashes. Establishments engaged in manually cleaning, washing, and/or waxing personal automotive vehicles.

(6) Mechanical car washes. Establishments engaged in, either freestanding or ancillary in use, mechanically cleaning, washing, and/or waxing vehicles, such as automobiles, minivans, SUVs and pickup and sport utility trucks.

(67) Secondhand (merchandise) dealers or sale or pawn of secondhand goods.

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ARTICLE VI. - SUPPLEMENTARY DISTRICT REGULATIONS

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DIVISION 5. - USES

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Subdivision VI. – Carwashes

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Sec. 98-1897. - Manual carwashes.

Individual freestanding establishments engaged in the manual washing and waxing of motor vehicles shall not be permitted within the city. For manual Manual carwashes, individual freestanding (manual) car washing and waxing businesses lawfully established prior to adoption of this ordinance shall be permitted to operate as a non-conforming use shall be permitted in C-1 and C-2 zoning districts; provided, however, that they continue to comply with the following requirements:

- (1) Carwashes must meet all South Florida Building Code requirements, as amended.
- (2) No carwash site shall exceed 560 square feet.
- (3) No carwash shall be higher than nine feet six inches.
- (4) Carwashes must provide at least three spaces for customer parking. In any event no required off-street parking shall be utilized for work space.
- (5) Carwashes must provide adequate drainage.
- (6) Before obtaining a building permit, the operator must provide a site plan of the whole retail area showing the proposed site of the carwash. The

operator shall also provide written consent of the property owner for a carwash establishment.

- (7) The operator shall also provide a site plan and elevation of the proposed carwash to the department of planning and development for review to determine compatibility with surrounding structures prior to building permit and licensing approval.
- (8) Washing or waxing commercial vehicles is prohibited in C-1 and C-2 zoning districts.
- (9) Washing implements, supplies and towels shall be screened from public view and not displayed in an unsightly manner.

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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 convicted of a violation of 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 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.

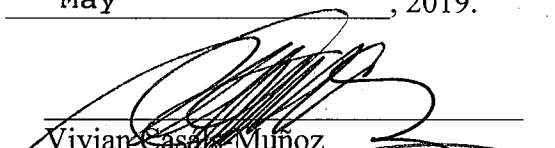
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 7: Effective Date.

This ordinance shall become effective when passed by the City Council and 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 28 day of May, 2019.

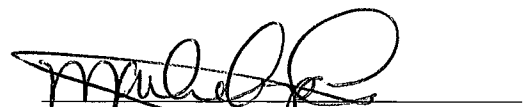
THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.



Vivian Casals-Munoz
Council President

Attest:

Approved on this 6 day of June, 2019.

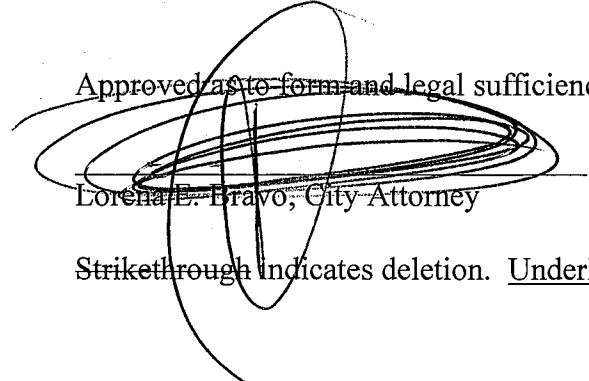


Marbelys Patjo, City Clerk



Mayor Carlos Hernandez

Approved as to form and legal sufficiency:



Lorena E. Bravo, City Attorney

Ordinance was adopted by a 6-0-1 vote with Councilmembers, Zogby, Cue-Fuente, Casals-Munoz, Garcia-Martinez, Hernandez, Caragol voting "Yes" and with Councilmember Lozano absent.

Strikethrough indicates deletion. Underline indicates addition.