

ORDINANCE NO. 2021-023

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 30 ENTITLED "ELECTED OFFICIALS", ARTICLE II. - PUBLIC MEETINGS, OF THE CODE OF ORDINANCES OF THE CITY OF HIALEAH, CREATING SECTION 30-32 ENTITLED "ATTENDANCE AND ABSENTEEISM" TO PROVIDE FOR ATTENDANCE AT CITY COUNCIL MEETINGS DURING A DECLARED EMERGENCY; IMPOSING A PENALTY UPON A COUNCIL MEMBER FOLLOWING A THIRD ABSENCE UNLESS GOOD CAUSE IS SHOWN; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, communication among members of the City Council is prohibited by law, except at a duly noticed public meeting; and

WHEREAS, consequently a quorum and the need to communicate among members of the City Council at a duly noticed public meeting is all the more imperative; and

WHEREAS, the goals of running any organization, and in particular local government in order to be efficient, secure the common good, the health, safety and welfare of its citizenry necessitates attendance; and

WHEREAS, attendance demonstrates leadership and a commitment in every meeting, to discuss, debate, and determine what must be done, encourage moral suasion among employees, and instill confidence in the citizenry.

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

Section 1: Chapter 30 entitled "Elected Officials", Article II. - Public Meetings of the Code of Ordinances of the City of Hialeah, Florida is hereby amended as follows:

CHAPTER 30

ELECTED OFFICIALS

* * *

ARTICLE II. – PUBLIC MEETINGS

* * *

Section 30-32. – Attendance and Absenteeism.

(a) Attendance at public meetings during a declared emergency. During a declared emergency pursuant to Florida Statutes Chapter 252, the State Emergency Management Act, as amended, the provisions of this Ordinance may be suspended or modified by resolution of the City Council.

(b) Absenteeism; Three-Strike Policy; Penalty. Beginning October 1, 2021, all A city council members shall be present in person at City Hall for City Council meetings. A city council member shall not be absent from more than three council meetings in any fiscal year. A member's fourth absence and any subsequent absence thereafter in any fiscal year shall result in the forfeiture of an amount of \$500.00 equivalent of the council member's annual compensation reflected in their W-2 divided by twenty four meetings, after a forfeiture hearing, absent good cause shown. The allotment of three absences from council meetings shall be renewed each fiscal year.

(c) Good cause. Good cause is a reason deemed by reasonable persons sufficiently valid to excuse attendance at the meeting and not indicative of caprice, indifference, or unwillingness to appear at the meeting. Good cause may be an illness, injury or other unanticipated, or unplanned occurrence or emergency requiring the member's immediate and indispensable attention such that when faced with deciding whether to tend to the matter or attend the meeting, a reasonable person would choose to tend to the matter without doubt or hesitation.

(d) Agenda. Upon a member's fourth absence in any fiscal year, the city clerk shall report to the city council the dates in which the member was absent and place the matter on the agenda for official action by the council at their next meeting. The matter shall be heard as first order of business and shall require the attendance of the full council. The absentee member shall be given notice of the council's

intent to consider whether the member has good cause for the absence or shall suffer the penalty of \$500.00 as provided in this section 30-32. A 5/7 vote shall be required to determine if good cause exists or a forfeiture is warranted.

(e) Waiver. Failure of the full city council to appear at the meeting for which the forfeiture matter has been scheduled shall be deemed a waiver of no absence and penalty.

(f) Absentee-Council Member's Due Process. The council member against whom a forfeiture hearing is scheduled shall be entitled to speak and oppose the forfeiture and to establish good cause, but shall not be entitled to vote on the matter.

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 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 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.

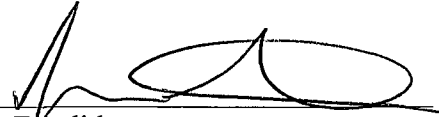
Section 5: Inclusion in Code.

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: 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 23 day of March, 2021.



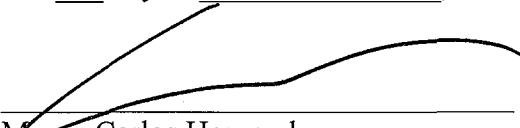
Jesus Tundidor
Council President

Attest:

Approved on this 29 day of March, 2021.



Marbelys Patjo, City Clerk



Mayor Carlos Hernandez

Approved as to form and legal sufficiency:



~~Lorena E. Bravo, City Attorney~~

Ordinance was adopted by 5-2-0 vote with Councilmembers, Cue-Fuente, De la Rosa, Hernandez, Tundidor, and Zogby voting "Yes" and Council Vice President and Council Member Garcia-Roves voting "No".

Strikethrough indicates deletion. Underline indicates addition.

S:\LEB\LEGISLATION\2021-ORDINANCES\Three Strikes-absenteeism-City Council.docx

THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 100.041
PRIOR TO FINAL READING.