

ORDINANCE NO. 2021-053

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 29. HIALEAH HEIGHTS, § 98-1601. - MH INDUSTRIAL DISTRICT, OF THE CODE OF ORDINANCES OF THE CITY OF HIALEAH ELIMINATING AUTOMOTIVE USES; PROVIDING FOR VESTED RIGHTS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board at its meeting of March 24, 2021, recommended approval of this ordinance; and

WHEREAS, to avoid automotive uses in proximity to residential uses, which have been a detriment to the character of residential neighborhoods in the City; and

WHEREAS, this amendment shall allow light industrial in the MH Industrial District and not automotive oriented uses, included but not limited to, repairs, installations and sales through zoning regulations in the best interest of the health, safety, welfare and the aesthetics of the community; and

WHEREAS, to avoid a repeat in the annexation area of automotive uses amassed and congregated about residences.

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

Section 1: Chapter 98, entitled "Zoning", Article V., Zoning District Regulations, Division 29. Hialeah Heights, Section 98-1601. - MH industrial District is amended as follows:

Chapter 98

ZONING

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ARTICLE V. ZONING DISTRICT REGULATIONS

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DIVISION 29. HIALEAH HEIGHTS

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Sec. 98-1601. - MH industrial district.

(a) *Permitted uses.* In MH industrial 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/or enclosed by a decorative masonry wall when the work is of a nature to be performed outside of a building. The permitted uses of the MH industrial district are the following:

(1) All uses permitted in M-1 and M-2 zoning districts, excluding uses permitted in subsection 98-1371(13) through (16) within the M-1-district, subsection 98-1156(a)(2) through (a)(11) within the C-3 extended liberal commercial district, and excluding uses permitted in subsection 98-1111(23) through (30), automotive uses within the C-2 liberal commercial district as follows:

(i) Automotive body and top work and painting (paint and body shops).

(ii) Automotive upholstery and installation of seat covers.

(iii) Automotive mechanical work generally performed in a repair shop, including rebuilding automotive components which require disassembly, assembly or replacement of automotive parts, such as the power train (transmission) systems, cooling systems and engines.

(iv) Facilities for construction, maintenance, service, repair, supply or storage of vessels, including shops for marine woodworking and fiberglass, electrical communication and instrument installation and repair, welding, sailmaking, engine

and motor repair and maintenance and refurbishing interiors.

(v) Automotive sales and rental subject to compliance with the ASD automotive sales district.

(vi) Automobile service stations.

(vii) Automobile mechanical work of a type generally performed at an automotive service station, including air conditioning repair and installation, fuel system (carburetor) repair and installation and electrical system (generator) repair and installation, but excluding rebuilding automotive components which require disassembly, assembly or replacement of the power train (transmission) system, cooling system and engines.

(viii) Bars.

(ix) Motorcycle sales and service shops subject to compliance with the ASD automotive sales district.

(x) Motor truck, SUVs and pickup and sport utility truck sales and rentals and service subject to compliance with the ASD automotive sales district, excluding trucks whose use requires the procurement of a chauffeur's license. All such vehicles shall be parked, stored or placed in an enclosed fenced or walled area; and such fence shall be kept locked or wall secured at all times, and each piece of equipment shall be kept locked or secured at all times. City approval required based on submission of site plan.

(xi) Mechanical carwashes.

(xii) Nightclubs.

(xiii) Self-service gasoline facilities added to an existing convenience foodstore or minimarket.

(xiv) Self-service gasoline facilities in conjunction with a with a convenience foodstore or minimarket.

(xv) Automotive glass/window tinting and replacement.

(xvi) Automotive alarm systems, security systems, stereos, radios and similar equipment and devices; sales, installation and repair.

(xvii) Automotive diagnostic testing services, without repair.

(xviii) Automotive emissions testing services.

(xix) Automotive batteries; sales and installation.

(xx) Automotive mufflers; sales and installation.

(xxi) Automotive oil change and lubrication shops and services.

(xxii) Automotive tires (new and used). Sales, installation and ancillary services; provided, however, discarded, abandoned or used tires, not for resale in connection with automotive tire sales, installation and ancillary services, shall be stored only within enclosed walls and shall be promptly disposed of and removed according to city, county, state and/or federal law or guidelines.

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Section 2: Preservation of vested rights.

Any approvals, applications, lawful development permits, site plan approvals, or as may be established pursuant to legal principles of vested rights and equitable estoppel, shall proceed pursuant to the regulations in effect at the time subject to the time frames provided for as follows:

(a) Expiration of approvals. Upon the approval of a rezoning to MH occurring prior to the effective date of this ordinance, all development orders for automotive uses prohibited by this ordinance shall expire if site plan approval is not obtained within 12 months from the effective date of this ordinance.

(b) Extension on approvals. Notwithstanding paragraph (a), a six-month extension of time may be granted by the City Council provided good cause for the delay has been shown by the applicant. Good cause may include, but shall not be limited to, delay caused by governmental action or inaction or other factors totally beyond the control of the applicant. An extension shall only be granted where an applicant has requested an extension in writing to the zoning director during the effective period of any development permit.

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.

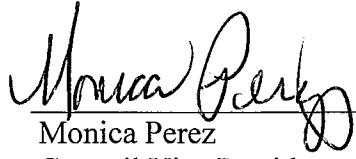
Section 6: Severability Clause.

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.

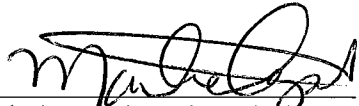
PASSED and ADOPTED this 25 day of May, 2021.



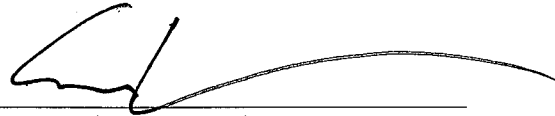
Monica Perez
Council Vice President

Attest:

Approved on this 7 day of June, 2021.

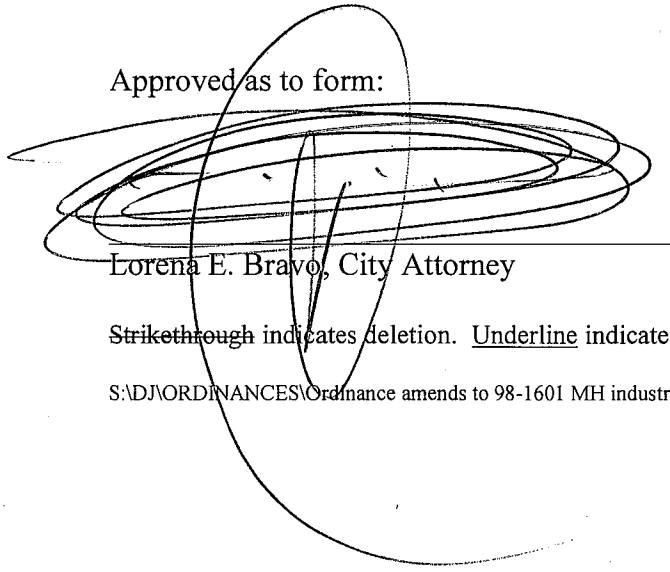


Marbelys Fatjo, City Clerk



Mayor Carlos Hernandez

Approved as to form:



Lorena E. Bravo, City Attorney

Ordinance was adopted by 4-0-3 vote with Councilmembers, Garcia-Roves, Hernandez, Perez and Zogby voting "Yes" and with Council President Tundidor, Council Member De la Rosa and Council Member Cue-Fuente absent.

Strikethrough indicates deletion. Underline indicates addition.