

ORDINANCE NO: 2021-064

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, AMENDING THE HIALEAH CODE OF ORDINANCES CHAPTER 18, ENTITLED "BUSINESSES", CREATING ARTICLE XII.- HOTELS AND MOTELS, AND A NEW SECTION 18-613 ENTITLED "HOTEL AND MOTEL RENTALS" TO PROHIBIT HOURLY RENTALS OF LESS THREE HOURS; TO PROHIBIT RENTALS TO PERSONS UNDER THE AGE OF TWENTY-ONE (21); REQUIRING IDENTIFICATION, A GUEST CHECK-IN PROCEDURE AND REGISTRATION LOG AND CLOSED CIRCUIT TELEVISION SYSTEM OR SIMILAR MONITORING DEVICE WITH RECORDING AND RETENTION CAPABILITIES; PROVIDING FOR LICENSE APPLICATION, PAYMENT OF A YEARLY FEE TO DEFRAY THE COSTS OF ENFORCEMENT AND APPROVAL OF A CRIME MITIGATION PLAN; 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, human trafficking is defined as the organized criminal activity in which human beings are treated as possessions to be controlled and exploited such as being forced into prostitution or involuntary labor; and

WHEREAS, Florida Statute 787.06(2)(d) defines human trafficking as the transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining another person for the purpose of exploitation of that person; and

WHEREAS, the Trafficking Victims Protection Act (TVPA) of 2000, 22 U.S. Code Chapter 78, Section 7101 et., seq., is the first comprehensive federal law to address trafficking in persons, and provides a three-pronged approach that includes prevention, protection, and prosecution, and pursuant thereto provides that:

Sex trafficking is the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purposes of a commercial sex act, in which the commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age (22 USC § 7102).

Labor trafficking is the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purposes of subjection to involuntary servitude, peonage, debt bondage, or slavery, (22 USC § 7102); and

WHEREAS, according to the Miami-Dade State Attorney and the Florida Attorney General, Florida ranks number three in the nation for human trafficking; and

WHEREAS, Miami has the highest concentration of human trafficking in the state of Florida; and

WHEREAS, according to the State Attorney, hotels and motels are often used by traffickers as places to carry out their crimes; and

WHEREAS, according to the State Attorney and the Department of Homeland Security a person who is not in possession of a valid government-issued identification is an indicator of human trafficking; and

WHEREAS, the U.S. Department of Justice human trafficking task force determined that the average age of a trafficked victim used for commercial sex is between 12 and 14 years of age; and

WHEREAS, pursuant to Florida Statutes § 16.617, the Statewide Council on Human Trafficking was created within the Department of Legal Affairs for the purpose of enhancing the development and coordination of state and local law enforcement and social services responses to fight human trafficking, to support victims, and make recommendations regarding policy, programs, and prosecution in support of victims of human trafficking; and

WHEREAS, the Florida Restaurant & Lodging Association (FRLA) issued its statement regarding Human Trafficking as follows: "...we have a moral obligation to do all we can to prevent this atrocious crime and to ensure that the Sunshine State remains a warm and welcoming place for all visitors. In that spirit, the association has committed to educating our members as well as others within the hospitality industry about the dangers of human trafficking.", and the FRLA provides for free on-line training to prevent human trafficking; and

WHEREAS, Effective January 1, 2021, all public lodging establishments, which include hotels and motels, regulated by the Division of Hotels and Restaurants must comply with the requirements of section 509.096, of the Florida Statutes by training its employees in the dangers and prevention of human trafficking; and

WHEREAS, according to Florida House of Representatives, HB 851 on Human Trafficking, codified as Florida Statute § 943.0433, provides in the Bill Analysis as follows:

"Human Trafficking schemes often rely on hotels and motels for their operations; for example, a hotel or motel may serve as a site for commercial sexual activity, board a traveling sales crew, or use a housekeeping subcontractor staffed by human trafficking victims. [] The United States Department of Homeland Security (DHS) has noted that

hotel and motel employees are often in the best position to see potential signs of human trafficking. [] Housekeeping and maintenance staff access the rooms, while front-desk employees, valets, and bellhops interact with guests and see who comes in and out.”

WHEREAS, the Bill Analysis states that front desk employees, valets, and bellhops may encounter signs of human trafficking when, among other things:

- (1) The room is rented hourly, less than a day, or for a long-term stay that does not appear normal; or
- (2) the same person reserves multiple rooms; or
- (3) there are few or no personal items when checking in; or
- (4) patrons are not forthcoming about full names, home address, or vehicle registration when registering; or
- (5) a minor takes on adult roles or behaving older than his or her actual age, such as paying bills or requesting services; or
- (6) a guest appears with a minor that he or she did not come with originally; or
- (7) people are dropped off at the establishment or visit repeatedly; or
- (8) a minor is accompanied with a patron late at night or during school hours; or
- (9) the room rented has fewer beds than guests; or
- (10) the guest’s car is regularly parked backwards to conceal the license plate.

WHEREAS, SB 1826 on Human Trafficking was signed by Governor DeSantis on June 29, 2021, expanding the definition of Human Trafficking provided for in § 787.06(2)(d) Florida Statutes to include:

“purchasing, patronizing, [or] procuring” or obtaining another person for the purpose of exploitation of that person; and

defining “obtain,” to mean “in relation to labor, commercial sexual activity, or services, to receive, take possession of, or take custody of another person or secure performance thereof.”; and

eliminating a defense to a charge of human trafficking that the individual trafficked was an adult, when it was believed by the trafficker that the individual was a child; and

WHEREAS, the Bill creates § 90.5034 Florida Statutes establishing a privilege for communication between human trafficking victims and human trafficking victim advocates or trained volunteers whereby such communications cannot be disclosed, unless consented to by the victim in writing; and

WHEREAS, the City of Hialeah Police Department over a two-year period from 2019 – 2021 handled 1,434 calls-for-service at five motels that rent hourly located within the city limits of Hialeah; and

WHEREAS, for comparison in 2019 there were 197 calls for service at one motel that rents hourly located within the city limits of Hialeah, as compared to the single hotel located within city limits of Hialeah, which does not rent hourly, for which there were 70 calls for service; and

WHEREAS, the City of Hialeah Police Department conducted an undercover operation from January of 2021 to April of 2021 at motels within the city limits of Hialeah that allow hourly rentals, which exposed that motels and hotels in the city provide a harbor for persons engaging in illicit activity involving drugs, prostitution, and the use of firearms; and

WHEREAS, the illicit activity observed during the Department's investigation creates an environment ripe for crimes involving human trafficking; and

WHEREAS, an undercover police officer with the City of Hialeah Police Department was allowed to rent a room at one of the motels that rents hourly located within the city limits of Hialeah without producing identification; and

WHEREAS, undercover police officers with the City of Hialeah Police Department observed that no motel employee attempted to interfere or limit criminal activity, including an instance of one employee at an hourly rental motel warning guests there was a police presence about; and

WHEREAS, researchers have found that sex trafficking victims are more likely to be trafficked by someone from within her or his own community; and

WHEREAS, persons under the age of twenty-one are more likely to still remain within and dependent on the community in which they were raised; and

WHEREAS, because of the prevalence of human and sex trafficking among Florida's youth population, on September 30, 2019, Florida's State Board of Education voted unanimously to make Florida the first state in the country to require child trafficking prevention education for all public education students in grades K-12; and

WHEREAS, by adopting this ordinance the City's interest in deterring human trafficking, reducing crime, and protecting minors and other victims of the sex trade, is advanced by deterring persons who refuse to identify themselves through presentation of a valid government-issued photo identification from renting rooms, helping identify those suspected of human trafficking or those enabling or abetting human traffickers, and by reducing the availability of rooms on fractional time basis to allow the commission of crimes; and

WHEREAS, deterring human trafficking and reducing crime protects the health, safety and welfare of the public.

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

Section 1. Findings. The above recitals are hereby adopted in their entirety and incorporated by reference.

Section 2. Chapter 18, entitled "Businesses" is hereby amended and Article XII. - Hotels and Motels, Section 18-613 Hotel and Motel Rentals, is hereby created as follows:

CHAPTER 18 BUSINESSES

* * *
ARTICLE XII. - HOTELS AND MOTELS
* * *

Sec. 18-613. - Hotel and Motel Rentals.

- (a) Hourly rentals prohibited. Hotels and motels are prohibited from renting rooms for less than three hours at a time.
- (b) Rentals to adults only. Room rentals shall be limited to persons over the age of twenty-one (21) or as authorized by law. All employees of hotels and motels shall have a duty to report to the city's police department the presence of an unaccompanied minor in the lodging establishment. An unaccompanied minor is any person under the age of 18 that is not accompanied by a parent, guardian, or other person having legal care and custody of such minor.
- (c) Photographic identification required. Rentals shall only be permitted to adults over the age of twenty-one (21) with a valid government issued photographic identification card that establishes the name, age and address of the person.
- (d) Maintain a check in/check out procedure and log. Prior to occupancy of any room for rent at any hotel or motel by a guest, the guest must be required to check-in, in person, at a lobby, registration desk or central location. The identification information required by subsection (c) shall be documented by scanning a copy of the identification presented, and entering this information into the log required by Florida law pursuant to Florida Statute 509.101(2). In addition, the log shall contain the following information about each guest checking-in:
 - (1) the issuer of the photographic identification and alphanumeric information unique to the person identified;
 - (2) name, age and address of the adult identified;
 - (3) the number or letter for each room rented by each adult guest checking-in;

(4) the number of persons accompanying the guest which shall not exceed the maximum number of occupants for the room during the rental period;

(5) the length of stay for the guest for each room rented which shall be no less than three hours; and

(6) the make, model, color and vehicle license plate information for any vehicle parked on the property of the hotel or motel under the control of any guest or room occupant of the hotel or motel during the rental period.

The log and scanned copy of the valid identification presented at check-in by each guest, shall be available upon demand by the city. The registration log shall be maintained for a period of two calendar years.

(e) *Closed Circuit Television or other similar monitoring device.* A closed-circuit television system (CCTV) or other similar monitoring device capable of capturing and recording a clear image of face of the persons checking in shall be installed. The CCTV or monitoring device shall capture and record the persons during check-in. The CCTV or monitoring system shall have the capacity to retain recordings of images of the persons checking in and capability to retrieve the images recorded for at least thirty (30) days.

(f) *Advertising.* Notwithstanding the minimum three-hour rental permitted pursuant to (a), no signage visible to the public from public rights-of-way adjacent to any hotel or motel advertising the availability of any hourly room rentals shall be permitted.

(g) *Application.* In addition to the regulations imposed upon hotels and motels pursuant to Chapter 86 of the Code of Ordinances of the City of Hialeah, each hotel or motel operator shall, upon application for a business tax receipt, submit on a yearly basis a crime mitigation plan, with sufficient specificity and in the manner provided by the city, which shall be approved by the Chief of Police. At a minimum, the crime mitigation plan shall identify and describe the design, features, functions and capabilities of equipment installed to comply with subsections (c), (d), (e) and (g) and provide a copy of the official operational and employment policies implemented to ensure compliance with the requirements of this ordinance. In addition, the crime mitigation plan shall provide the following:

(1) An electronic key card swiping or insertion locking system to the entrance to each rentable unit or room and to each door opening to the exterior or common areas or hallways from the rentable unit or room. A numbers, other punch or mechanical locking system is not permitted. The provisions of this subsection (g)(1) shall become effective beginning October 1, 2023; and

- (2) A report of peak rental hours and any seasonal variation; and
- (3) A security guard licensed by the State of Florida on premises at least one hour prior to, during and one hour after peak rental hours; and
- (4) A statement as to whether the lodging establishment has an operable video surveillance system.

Crime mitigation plans shall contain a sworn statement signed by the applicant attesting to the completeness, accuracy and truthfulness of the crime mitigation plan and in addition attest to the following:

- (5) That each employee has complied, as required by the State of Florida, with the annual human trafficking awareness training set forth in Section 509.096, Florida Statutes or the employee is undergoing such training, and provide State documentation of such; and
 - (6) That each employee shall have the duty to report any and all illegal activity observed on the premises to the city's police department; and
 - (7) That each employee shall fully cooperate with the police and prosecuting agency, regarding any investigation or subsequent to any arrest made on the premises.
- (h) Administrative fee. The applicant shall pay an annual nonrefundable fee in the amount of \$750.00 each year upon application for a business tax receipt and each year upon renewal of the business tax receipt.
 - (i) Precompliance review. In the event the person who has authority over the establishment regulated by this ordinance shall not consent to an inspection of the log provided for in subsection (d), or the images available on CCTV as provided in subsection (e), upon sufficient grounds for just cause a court of competent jurisdiction may issue an order to the city for the purpose of allowing inspection, provided subsection (j) is satisfied. Chapter 933 of the Florida Statutes pertaining to search and inspection warrants, as applicable, may be employed.
 - (j) Just cause. Just cause may be established provided at least one of the following grounds is established: (1) the inspection shall ensure compliance with the hourly ban and recordkeeping requirements; (2) eyewitness account of human trafficking; (3) citizen complaints of human trafficking; (4) plain view of human trafficking; (5) human trafficking, solicitation of or prostitution at the establishment apparent from government sources; (6) the city's reasonable certainty that a search of the

premises shall reveal human trafficking, drugs or prostitution, as deemed by reasonable persons based on the circumstances.

- (k) The provisions of this ordinance may be enforced by all legal enforcement remedies available to city provided in the code or at law. If an administrative or judicial tribunal finds a hotel or motel operator guilty of a violation of any provision of this ordinance, the city shall be entitled to recover its investigative costs incurred in the enforcement action.
- (l) The owner, agent, manager or keeper of a motel or hotel, or the person who has authority over the establishment regulated by this ordinance shall be responsible to ensure this ordinance is complied with.

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: 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.

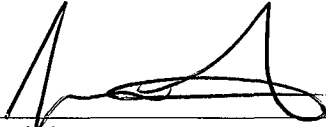
Section 6: Inclusion in Code.

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 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. Unless otherwise provided elsewhere, the effective date of this ordinance shall be October 1, 2021.

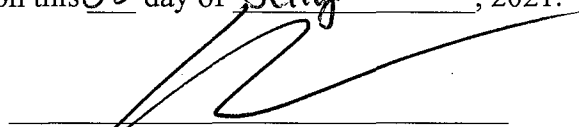
PASSED and ADOPTED this 13 day of July, 2021.



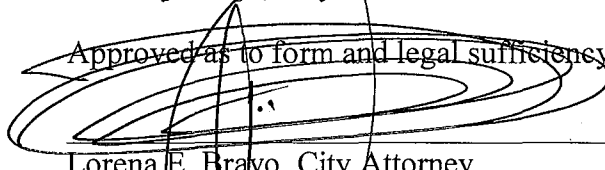
Jesus Tundidor
Council President

Attest:

Approved on this 22 day of July, 2021.


Marbelys Fatjo, City Clerk
Mayor Carlos Hernandez

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

Approved as to form and legal sufficiency:

Lorena E. Bravo, City Attorney

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THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 189.041
PRIOR TO FINAL READING.