

ORDINANCE NO. 2022-044

ORDINANCE AMENDING ORDINANCE NO. 2022-015 (MARCH 8, 2022) OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, AMENDING THE HIALEAH CODE OF ORDINANCES CHAPTER 18, ENTITLED "BUSINESSES", ARTICLE VI. "PEDDLERS, SOLICITORS, ITINERANT VENDORS", DIVISION 2. "PEDDLERS, ITINERANT VENDORS"; §18-311 "RETAIL SALES FROM TENTS"; ALLOWING RETAIL TENT SALES OTHER THAN THE SALE OF CHRISTMAS TREES AND FIREWORKS AS A SPECIAL EVENT; ALLOWING ADDITIONAL TIME FOR RETAIL SALES AS A SPECIAL EVENT; ALLOWING FOR A FARMERS' MARKET; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, retail sales from tents, other than for Christmas trees and fireworks, are not permitted other than for three consecutive days from 9:00 a.m. to 5:00 p. m. on property zoned C-1 (restricted retail commercial) and C-2 (liberal retail commercial); and

WHEREAS, allowing retail tent sales, other than for the sale of Christmas trees and fireworks, including a Farmer's Market on properties where the site hosting the market comprises an area of no less than a site area of 5 acres, having either commercial or commercial recreation land use classifications, will provide for commerce conducive with the city's commercial needs; and

WHEREAS, Chapter 18, Article II, Special Events of the Hialeah Code of Ordinances was created and amended the application process for special events; and

WHEREAS, an amendment is necessary to modify the days and times that tent sales may operate and lower the price of the permit fee.

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

Section 1: Ordinance No. 2022-015, Chapter 18, Entitled "Businesses", Article VI. "Peddlers, Solicitors, Itinerant Vendors", Division 2. "Peddlers, Itinerant Vendors"; §18-311 "Retail sales from Tents" is hereby amended as follows:

Sec. 18-311. - Retail sales from tents.

(a) *In general.* Retail sales of new merchandise from tents are allowed on property zoned C-1 (restricted retail commercial) and C-2 (liberal retail commercial) and as a permitted Special Event as provided for in Chapter 18 Businesses, Article II, Special Events of the Hialeah Code of Ordinances, on property having commercial and commercial recreation land use classifications, subject to the following limitations and requirements:

(1) *Limitations.* The hours of operation of a tent sale for retail merchandise, other than the sale of Christmas trees and fireworks as provided elsewhere, shall not extend beyond ~~three consecutive~~ either individually or consecutively, from 9:00 a.m. to 5:00 p.m. daily, for each permit issued. The hours of operation may not be extended for any circumstance or reason. A permit may not be extended to expand the hours of operation. ~~No more than one tent sale may be conducted at the same location during the calendar year.~~ The same location extends to the boundary lines of the property or shopping center. Tent sales shall be conducted within the boundary lines of the same property or shopping center where the business of the permit holder is located. ~~The permit holder shall not operate more than one tent sale at the same location during the calendar year.~~ Used, second-hand or discarded merchandise or wholesale merchandise shall not be sold or offered for sale from tents. The tent sale shall be conducted within the required setbacks of the property, although setback and parking requirements may be waived by the building official if the tent sale is conducted within an area reserved for parking. Such waiver shall be based on whether there is sufficient and adequate parking to allow for the tent sale in the parking area.

(b) *Requirements.* Retail sales from tents are allowed only by issuance of a permit by the city. A maximum of two tents, with no more than 2 feet of separation, and no more than 100 square feet per tent will be permitted. Prior to the issuance of a permit, the applicant must pay a fee in the amount of ~~\$250.00~~ \$100.00, provide proof of insurance, written authorization of the property owner if the applicant is not the property owner and a certification by the city fire marshal and building official that the tent has been inspected and is in compliance with applicable fire safety regulations, the city fire prevention code, and the Florida Building Code if tents exceed 10 feet by 10 feet.

(c) *Display of permit.* Before the offer of sale or sale of any retail merchandise from a tent, the city permit shall be prominently displayed on the premises.

(d) *Farmers' market.*

A Farmers' Market means locally-sourced edible fruits, vegetables, and food, native plants, and crafts, on property having commercial and commercial recreation land use classifications where the site hosting the market comprises a site area of no less than 5 acres.

A Farmer's Market at any one location may not operate more than for three consecutive days with an intervening break of three consecutive days before siting again, nor exceed a total of 90 days in any 12-month period, and may not be extended through a change in sponsorship in order to circumvent the limitation.

(e) *Application.*

The application shall be provided to the city clerk, and identify the dates, locations, and the times of commencement and termination of the proposed event, and a description on a site plan of event activities to include:

- (1) The dimensions and locations of any tents, and any other proposed structures, including general location of vendors.
- (2) Identification of internal circulation, fire-lanes, and driveways, ingress and egress, parking, and directions regarding the routes for both vehicular and pedestrian traffic to include identification of any proposed road closures and the detours.
- (3) The number and locations of the sanitation facilities and water sources for public consumption, which will be available.
- (4) Locations of garbage containers or portable sanitary stations, and the measures to be implemented to collect garbage or refuse, and how same shall be disposed of.
- (5) Means and methods to provide crowd control.
- (6) Daily times and dates.
- (7) The name, address, and telephone number of the applicant. The name and telephone number of a responsible party who may be reached at all times during the event.
- (8) When the special event is held on private property not owned by the applicant, a notarized letter of permission from the property owner must be on file in the city clerk's office.

- (9) Best's Guide Rating A-X or better or its equivalent insurance as determined by the city procured and maintained in full force and effect during the period of the event. The City reserves the right to modify the kinds and amounts of insurance coverage required in this section, including the right to make periodic adjustments to the amounts of required coverage for inflation.
- (10) Proof of an active Business Tax Receipt.

(f) *Grounds for rejection of application.*

The City may deny a permit for any of the following reasons:

- (1) Failure to provide the items in (e).
- (2) The applicant has not tendered the required application fees, insurance, release and indemnification, as required by the city.
- (3) The applicant has on prior occasions in applying for a permit or in the instant application, made material misrepresentations regarding the scope of the special event or previously has violated the terms of prior permits issued.
- (4) The applicant on prior occasions damaged property or injured persons.
- (5) A fully executed prior application for a permit, including city events, for the same time and place has been received and granted, which does not reasonably permit multiple occupancy of the same space or parts thereof.
- (6) The applicant failed to pass any building permit reviews and inspections such as electrical, mechanical, structural, or fire reviews.
- (7) The location of the special event will substantially interfere with construction or maintenance work previously scheduled to take place or underway at the same site or locations.
- (8) The event will occur at a time when a school is in session and is along a route or at a location immediately adjacent to the school in session.

(g) *~~Recession~~ Rescission of permit.*

The city council may either revoke or temporarily suspend the permit of any person when it is determined by the city that the permit holder misrepresented or failed to disclose material information required by this ordinance.

- (1) The permit holder shall be notified by that the permit shall be revoked or suspended when notification of proposed revocation or suspension has been sent by registered mail, return receipt requested, to the business address listed on the application.
- (2) If a permit is revoked or suspended under this section, the city shall be entitled to recover its investigative costs.

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 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 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.

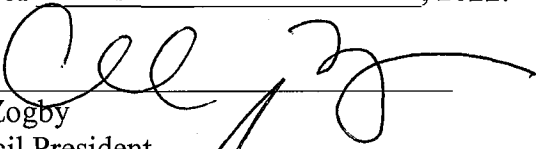
Section 5. Inclusion in Code.

The Code Amendments provided for in this ordinance shall be included and incorporated in the Code of Ordinances of the City of Hialeah, Florida.

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 24 day of May, 2022.



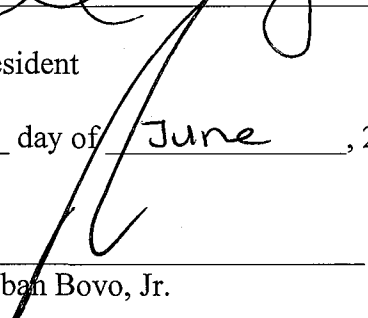
Carl Zogby
Council President

Attest:

Approved on this 8 day of June, 2022.



Marbelys Fatjo, City Clerk



Mayor Esteban Bovo, Jr.

Ordinance was adopted by 7-0 vote with Councilmembers Calvo, Casáls-Muñoz, García-Roves, Perez, Rodríguez, Tundidor, and Zogby voting "Yes".

~~Approved as to legal sufficiency and form:~~



Lorena E. Bravo, City Attorney

~~Strikethrough indicates deletion. Underline indicates addition.~~

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THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
CITY CHARTER ARTICLE 166.041
C. T. FINAL READING.