

ORDINANCE NO. 2022-112

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, GRANTING A VARIANCE PERMIT TO ALLOW 24 BACKOUT PARKING SPACES, WHERE 56 PARKING SPACES ARE REQUIRED WHERE BACKOUT PARKING SPACES ARE ONLY ALLOWED IN RESIDENTIAL ZONED AREAS; ALLOW 1.7% PERVIOUS AREA, WHERE 10% PERVIOUS AREA IS THE MINIMUM REQUIRED; AND ALLOW A WAIVER OF MINIMUM LANDSCAPE REQUIREMENTS FOR THE LEGALIZATION OF AN EXISTING RESTAURANT; ALL CONTRA TO HIALEAH CODE OF ORDINANCES §§ 98-2189, 98-2190 AND CITY OF HIALEAH LANDSCAPE MANUAL, LATEST EDITION DATED JULY 9, 2015. **PROPERTY LOCATED AT 5881 NW 37 AVENUE, HIALEAH, ZONED M-2 (INDUSTRIAL DISTRICT)**; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board at its meeting of October 12, 2022 recommended approval of this ordinance.

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

Section 1: The below-described property is hereby granted a variance permit to allow 24 backout parking spaces, where 56 parking spaces are required where backout parking spaces are only allowed in residential zoned areas, contra to Hialeah Code of Ordinances § 98-2189(10) that as relevant provides: “*Establishments serving food, liquor or refreshments, including restaurants, lounges, nightclubs or other similar places.* a. If dancing is not permitted or if live entertainment is not provided, one parking space for each 150 square feet of gross floor area is required...”; and contra to Hialeah Code of Ordinances § 98-2190 that as relevant provides: “In all zoning districts, the parking area shall be so arranged that there is no backout into an adjacent private or public street or right-of-way, except for those lots in low density residential districts or developments...”; allow 1.7% pervious area, where 10% pervious area is the minimum required, and allow a waiver of minimum landscape requirements for the legalization of an existing restaurant, contra to City of Hialeah Landscape Manual, Latest Edition dated July 9, 2015. Property is located at 5881 NW 37 Avenue, Hialeah, zoned M-2 (Industrial District) and is legally described as follows:

Lots 1, 2 and 3, in Block 1, of PAN AMERICAN TERMINALS, according to the Plat thereof as recorded in Plat Book 50, at Page 71 of the Public Records of Miami-Dade County, Florida.

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.

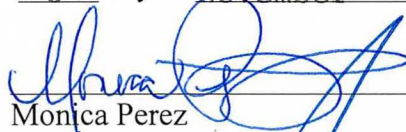
Section 4: Severability Clause.

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: 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 8 day of November, 2022.



Monica Perez
Council President

Attest:



Marbelys Fatjo, City Clerk

Approved on this 17 day of November, 2022.



Mayor Esteban Bovo, Jr.

Approved as to form and legal sufficiency:



Lorena E. Bravo, City Attorney

S:\AJM\ORDINANCES\588\ NW 37 Ave M-2 allow backout parking spaces, pervious area, waiver landscape (p&z 10.12.22).docx

Ordinance was adopted by 6-0-1 vote with Councilmembers Calvo, Garcia-Roves, Perez, Rodriguez, Tundidor, and Zogby voting "Yes" and with Councilmember Casáls-Muñoz absent.