

ORDINANCE NO. 2017-045

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA SUBMITTING TO THE ELECTORATE AT A SPECIAL ELECTION OF THE CITY TO BE HELD ON TUESDAY NOVEMBER 7, 2017, THE SAME DATE AS THE HIALEAH PRIMARY ELECTION IN MIAMI-DADE COUNTY, WHERE THE ELECTORS AT THE HIALEAH PRIMARY AND SPECIAL ELECTION SHALL BE PRIVILEGED TO VOTE ON THE FOLLOWING BALLOT QUESTION:

“SHALL THE CITY OF HIALEAH CHARTER BE AMENDED TO ALLOW THE CITY TO SELL BY A VOTE OF AT LEAST 5 COUNCILMEMBERS, CITY OWNED VACANT AND UNIMPROVED LAND, NOT PRESENTLY USED AS A PARK, AND FOR WHICH THE COUNCIL DETERMINES THERE IS NO FUTURE NEED FOR USE AS A PARK OR ANY OTHER PUBLIC USE?”

REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, presently the City Council, as required by § 1.04(b) of the City Charter, requires the City to hold a referendum election each time City owned real property is sold; and

WHEREAS, a Charter amendment to sell, city owned vacant and unimproved lands, which cannot be used for parks or recreational purposes, by a super-majority vote of the City Council, will save the time and expense of referendum elections; and

WHEREAS, a supermajority vote is at least one vote more than the number of votes comprising a simple majority.

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

Section 1: The Charter of the City of Hialeah, Florida, Article 1, entitled: "Corporate existence, form of government, boundary and power" and specifically, § 1.04(b)(1), is hereby amended to read, if approved by voter referendum, as follows:

CHARTER

* * *

**ARTICLE I. - CORPORATE EXISTENCE, FORM OF GOVERNMENT,
BOUNDARY AND POWER**

* * *

Section 1.04. - Powers of the city.

(b) Alienability of property.

(1) *Sale of city lands, parks or recreational areas.* The city shall not give, donate, sell or otherwise dispose of city real property, parks or recreational areas without approval of the electorate in a referendum held at a general or special municipal election. But the city council may without referendum, upon request of the mayor and an affirmative vote of at least 5 councilmembers, authorize the sale of city owned vacant and unimproved land, not presently used as a park, and for

which the council determines there is no future need for use as a park or any other public use, or the exchange of city real property, park or recreational area if the city receives real property that is greater in value than the city real property, park or recreational area exchanged, providing that there is a demonstrated public interest and purpose. Properties forfeited or foreclosed under state or federal laws or city ordinances are exempt from these provisions. Alleys, rights-of-way, easements or licenses are exempt from these provisions.

Section 2: The Mayor and the City Council of the City of Hialeah, Florida hereby submit the following question to the electorate at a special election of the City of Hialeah, Florida, the Hialeah Primary and Special Election, to be conducted on Tuesday, November 7, 2017, on the same date of the Hialeah primary election in Miami-Dade County, to which the electors of the City of Hialeah, Florida may vote “Yes” or “No”. The form of the ballot question shall be as follows:

Title: Sale of city owned vacant and unimproved lands, not presently used as a park.

Ballot Question:

“SHALL THE CITY OF HIALEAH CHARTER BE AMENDED TO ALLOW THE CITY TO SELL BY A VOTE OF AT LEAST 5 COUNCILMEMBERS, CITY OWNED VACANT AND UNIMPROVED LAND, NOT PRESENTLY USED AS A PARK, AND FOR WHICH THE COUNCIL DETERMINES THERE IS NO FUTURE NEED FOR USE AS A PARK OR ANY OTHER PUBLIC USE?”

[] Yes

[] No

Section 3: Conduct of Elections.

The Miami-Dade County Supervisor of Elections is requested and authorized to conduct these elections in accordance with the general election laws of the State of Florida and the Charter and Code of the City of Hialeah, Florida. The City will pay all expenses associated with these elections unless some of the expenses are shared with other governmental entities. The Miami-Dade County Supervisor of Elections shall appoint an Election Board to assist the Elections Department in conducting the elections. The City of Hialeah will make the final tabulation and certification of results.

Section 4: Form of Ballot.

The ballot form to be used shall be as provided by the Miami-Dade County Supervisor of Elections.

Section 5: Opening and Validating Absentee Ballots.

The criteria and requirements for the opening and validating of absentee ballots and canvassing of ballots shall be same as followed by the Miami-Dade County Supervisor of Elections. All absentee ballots shall comply with the minimum requirements of state law.

Section 6: Canvassing Board.

The City Councilmembers may serve as the Canvassing Board for this election. Furthermore, the members in attendance will be the Canvassing Board for the Logic and Accuracy test and the canvas of ballots on Election Day. If no member of the Canvassing Board attends the Logic and Accuracy tests and/or the canvassing of the ballots on Election Day, the City Clerk shall serve as the Canvassing Board designee for the City Council.

Section 7: Certification of Results.

The Canvassing Board will make the official certification of the results of the ballot question on or about at 12:00 noon on Wednesday, November 8, 2017, at a special meeting the day following the election.

Section 8: Registration of Voters.

The Miami-Dade County Supervisor of Elections will register voters for the ballot question conducted at the election until 5:00 p.m. on Tuesday, October 10, 2017. All persons eligible to vote at this election must be registered before the times stipulated above or have registered previously, as provided by law.

Section 9: Polling Places, Hours of Voting.

Polling places for this election will be as designated by the Miami-Dade County Supervisor of Elections and will be open from 7:00 a.m. to 7:00 p.m. on the Election Day. Early voting shall be at the same times and dates as early voting is allowed by Miami-Dade County.

Section 10: Notice.

Notice of this election shall be according to law.

Section 11: Early Voting.

The City shall comply with the times and locations of early voting as established by the Miami-Dade County Supervisor of Elections pursuant to state law.

Section 12: Inclusion in Charter.

The provisions of this ordinance shall be included and incorporated in the Charter of the City of Hialeah, Florida, if the question presented is answered affirmatively by a referendum of the

electors of the City of Hialeah, Florida and the results of the election are certified. The effective date of this new charter amendment will be upon the certification of the elections results, and the City shall incorporate the charter amendment into its charter and file the revised charter with the State Department. F. S. 166.031(2).

Section 13: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 14: 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 15: 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.

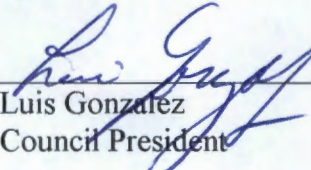
Section 16: Effective Date.

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 22 day of August, 2017.

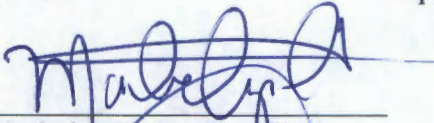
THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.



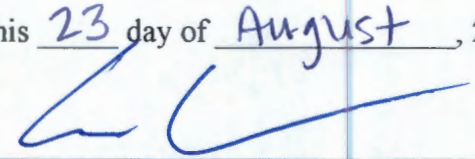
Luis Gonzalez
Council President

Attest:

Approved on this 23 day of August, 2017.

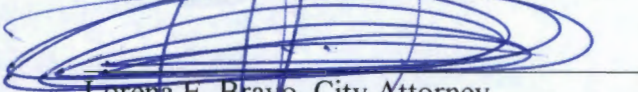


Marbelys Fatjo, City Clerk



Mayor Carlos Hernandez

Approved as to legal sufficiency and form:



Lorena E. Bravo, City Attorney