

ORDINANCE NO. 2016-66

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 98 ENTITLED "ZONING", ARTICLE II. ADMINISTRATION, DIVISION 9 ADMINISTRATIVE VARIANCES, OF THE CODE OF ORDINANCES AND IN PARTICULAR AMENDING SECTION 98-256, ENTITLED "DEFINITIONS" TO ADD A VARIANCE FOR ADOPTED DESIGN STANDARDS; AMENDING SECTION 98-257 ENTITLED "ADMINISTRATIVE VARIANCE COMMITTEE" IDENTIFYING COMMITTEE MEMBERS AND OFFICERS; AMENDING SECTION 98-258 ENTITLED "LIMITATION OF AUTHORITY" PROVIDING FOR AUTHORITY TO CONSIDER REQUESTS FOR CHANGES TO APPROVED PATTERN BOOKS; AMENDING SECTION 98-259 ENTITLED "APPLICATION" TO PROVIDE FOR FEES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board at its meeting of October 12, 2016 recommended approval of this ordinance.

WHEREAS, the administrative variance process provides for expedient and efficient review and decision-making of limited nonuse variance petitions;

WHEREAS, amendments to the City's zoning code over time have provided for increased regulation and oversight over design standards, such as permissible color palettes, acceptable building materials and finishes; and

WHEREAS, petitions for minor variances from approved design standards should be reviewed and decided by the administrative review committee to avoid unnecessary delay in decision-making;

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

Section 1: Chapter 98 entitled “Zoning” of the Code of Ordinances of the City of Hialeah, Florida, is hereby amended to read as follows:

Chapter 98

ZONING

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ARTICLE II. ADMINISTRATION

* * *

DIVISION 9. ADMINISTRATIVE VARIANCE

Sec. 98-256. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrative variances or limited nonuse variances, as these terms may be used interchangeably for the purpose of this division, involve variances that have no relation to change of use of property and that relate only to matters concerning setback requirements; landscaping requirements; sign regulations; floor area requirements; yard requirements; lot coverage; height, width and length limitations for structures or buildings; ~~and~~ spacing requirements between principal and accessory buildings and amendment of adopted design standards.

Sec. 98-257. Administrative variance committee.

* * *

(b) The committee shall ~~comprise four~~ be composed of five members: ~~the chief code enforcement officer, the building official, the planning division director and the principal planner~~ the Planning and Zoning Official, the Code Compliance Official, the Building Official, the Streets Department Director and the Planning Technician.

* * *

(d) The ~~building official~~ Planning and Zoning Official shall be the committee chairperson, and the ~~principal planner~~ Planning Technician shall be the committee secretary. The committee secretary shall keep minutes of the meetings conducted.

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Sec. 98-258. Limitation of authority.

The right of the administrative variance committee to review requested variances shall be limited to ~~already developed individual lots developed for residential use, or lots within a residential development developed pursuant to a common plan of development and subject to an approved pattern book~~ except that ~~the~~ The committee may ~~also~~ review requested variances of undeveloped individual lots intended for development of affordable housing. The committee may only approve requests for administrative variances which permit variations up to but not exceeding 20 percent of the specific ordinance requirements for minimum setbacks; minimum landscaping; maximum size and

number of signs; location, type and features of signs; minimum and maximum floor area; maximum lot coverage; maximum height, length and width of buildings; and—minimum spacing requirements between principal and accessory buildings and requests for changes to the architectural or design standards in an approved pattern books without review by the planning and zoning board or other compliance with this chapter except as so provided in this division. The Administrative Variance is limited to only one variance request for each lot.

Sec. 98-259. Application.

Each administrative variance application to be reviewed by the administrative variance committee shall be made by the property owner on a form prescribed by the committee and shall be submitted to the planning division. The application shall include a current sealed survey and a site plan showing existing structures on the subject property, location and use of the proposed additions, and location and use of existing structures on abutting and adjacent properties. The application shall also explain the reason for the proposed variance and shall be accompanied by the following:

- (1) A fee equal to \$750.00 for properties zoned R-1 and R-2 and \$3,500 for properties within any other zoning district. ~~one-half of the fees charged for variance requests considered by the planning and zoning board, as final decision maker or as recommending body. If the same matter is considered by the planning and zoning board, as final decision maker or as recommending body, the property owner, upon filing a new application within 90 days of a decision of the administrative variance committee, shall receive a credit for~~

~~fees paid towards payment of the fees required for consideration of the applications for variances to the planning and zoning board;~~

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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 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 4: 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 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

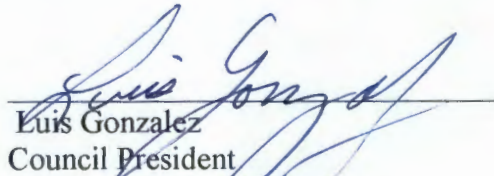
invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 6: 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.

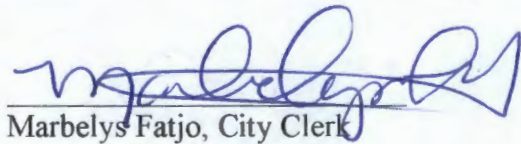
PASSED and ADOPTED this 8 day of November, 2016.

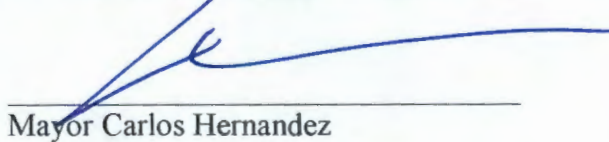
THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.


Luis Gonzalez
Council President

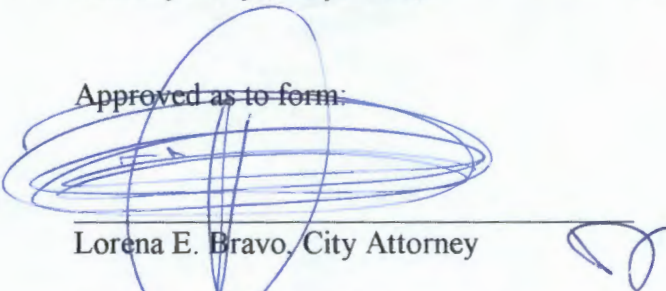
Attest:

Approved on this 17 day of November, 2016.


Marbelys Fatjo, City Clerk


Mayor Carlos Hernandez

Approved as to form:


Lorena E. Bravo, City Attorney

Ordinance was adopted by a 6-0-1 vote with Councilmembers, Garcia-Martinez, Gonzalez, Hernandez, Lozano, Casáls-Muñoz and ~~de-Fuente~~ voting "Yes", Councilmember Caragol absent.

Strikethrough indicates deletion. Underline indicates addition.