

ORDINANCE NO. 2016-04

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 98 ENTITLED "ZONING", ARTICLE V. ZONING DISTRICT REGULATIONS, DIVISION 35. ALWOD ARTIST LIVE/WORK OVERLAY DISTRICT OF THE CODE OF ORDINANCES OF THE CITY OF HIALEAH, AND IN PARTICULAR, ADDING A NEW SECTION 98-1630.22 ENTITLED "ALCOHOLIC BEVERAGE REGULATIONS", CREATING AN EXEMPTION FOR ESTABLISHMENTS SELLING, SERVING OR PERMITTING CONSUMPTION ON THE PREMISES OF ALCOHOLIC BEVERAGES FROM THE DISTANCE SEPARATION REQUIREMENTS; ALLOWING THE SALE OF ALCOHOLIC BEVERAGES FROM 8:00 A.M. TO 3:00 A.M.; REQUIRING A CONDITIONAL USE PERMIT AND PROVIDING FOR CONDITIONAL USE PERMIT APPLICATION REQUIREMENTS AND STANDARDS OF REVIEW; 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; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, taking over what used to be an industrial district of the City of Hialeah, developers have rehabilitated neglected warehouses, shuttered factories, and other vacant and underutilized buildings, transforming them into numerous art complexes, galleries, performing art spaces, restaurants, cafes, and other creative businesses at the Artist Live/Work District; and

WHEREAS, the general purpose of this ordinance is to promote the Artist Live/Work District as the epicenter of the arts and creative businesses in City of Hialeah while enhancing the character of the factory and warehouse district and providing a clean, safe, and enriching environment for pedestrians, occupants, and visitors; and

WHEREAS, this ordinance intents to promote and encourage the growth and stability of restaurants, nightclubs, lounges and similar establishments within the Artist Live/Work District by providing these businesses with an opportunity to sell, offer, deliver, serve or permit to be consumed on the premises alcoholic beverages without restrictions on distances from other establishments and specific uses as is required generally required of establishments selling alcoholic beverages throughout the City; and

WHEREAS, the Planning and Zoning Board at its meeting of November 18, 2015 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: Chapter 98 entitled "Zoning", Article V. Zoning District Regulations, Division 35. Alwod Artist Live/Work Overlay District of the Code of Ordinances of the City of Hialeah, and in particular, revising adding a new section 98-1630.22 entitled "Alcoholic beverage regulations" as follows:

Chapter 98

ZONING

* * *

ARTICLE V. ZONING DISTRICT REGULATIONS

* * *

DIVISION 35. ALWOD ARTIST LIVE/WORK OVERLAY DISTRICT

* * *

Sec. 98-1630.22. - Alcoholic beverage regulations.

- (a) Limited Exception from distance separation requirements. Except for distance requirements from schools and provided that all other provisions of Chapter 6, Alcoholic Beverages, are complied with, establishments selling, offering for sale, delivering, serving or permitting the consumption of any alcoholic beverage within the Artist Live/Work Overlay District, as the district is delimited by section 98-1630.18, are exempt from all other distance requirements set forth in section 6-66(a). This limited exception shall not apply to liquor stores. Liquor stores shall remain subject to all the provisions of section 6-66(a), including restrictions on distance separation and hours of operation.

- (b) Hours of operation. Notwithstanding any provision to the contrary, establishments selling, offering for sale, delivering, serving or permitting the consumption of any alcoholic beverage in the Artist Live/Work Overlay District shall sell, or offer for sale, deliver, serve or permit to be consumed on the premises any alcoholic beverage between the hours of 8:00 a.m. and 3:00 a.m. on any day of the week.

- (1) Nightclubs, discotheques, lounges and bars shall not open during regular school hours.
- (c) All other provisions of Chapter 6, Alcoholic Beverages shall apply to establishments selling, offering for sale, delivering, serving or permitting the consumption of any alcoholic beverage in the Artist Live/Work Overlay District.
- (d) Restaurants licensed by the state to sell retail alcoholic beverages under the license category 1-COP or 2-COP shall have provide either (i) a minimum total service area of 850 square feet or (ii) a combination of a full-service operating kitchen area of 500 square feet and a total service area of 700 square feet. Dimensions which do not meet either of these minimums must be approved by a variance. The minimum service area shall be comprised of the floor area occupied by patron seating at tables and chairs and shall not include any space at counters, bars or lounges.
- (e) Conditional use permit required.
 - (1) All establishments selling, offering for sale, delivering, serving or permitting the consumption of any alcoholic beverage in the Artist Live/Work Overlay District are subject to a conditional use permit as provided for in this section (e) in addition to complying with the general requirements of conditional use permits pursuant to section 98-181.
 - (2) Purpose for conditional use permit, generally. Establishments selling or serving alcoholic beverages are compatible with other land uses permitted in the zoning and overlay districts but, because of the unique characteristics or potential impacts on the surrounding neighborhood and the city as a whole, these establishments require individual review as to their location, design, configuration, and/or operation of the establishment at the particular location proposed, as well as the imposition of conditions or limitations on the use in order to ensure that the it is compatible with the surrounding neighborhoods and appropriate at the particular location.
 - (3) Application requirements. No use designated as a conditional use shall be established until after such use has received approval under the provisions of this section. The conditional use permit will follow the subject property, regardless of ownership, or will be limited to a specific

number of years and conditions of use. The applicant requesting a CUP conditional use permit must have a legal interest in the property or obtain permission from the property owner as evidenced by a properly executed affidavit. An application for conditional use permit approval shall be filed with the Planning and Zoning Department. The application shall provide sufficient information to establish the proposed use meets the requirements of this Section 98-1630.22, advances the established purposes of ALWOD, and meets all other applicable land development regulations. The application shall also include:

a. The scale and intensity of the proposed conditional use including:

1. A site plan providing the floor area layout, the square feet of enclosed building for each specific use;
2. A written and graphic summary of the proposed use which may include a summary or description or illustration of the configuration, design, and/or operational plan addressing hours of operation, number of employees, menu items, and other operational and/or design characteristics pertinent to the application;
3. Off-street parking needs and traffic circulation patterns to minimize congestion.
4. Proximity of the proposed establishment to residential uses.

b. On- or off-site improvements, if any, to include the following:

1. Roadway or signalization improvements, or other similar improvements;
2. Public facility improvements required to ensure compliance with the city's concurrency management system;
3. Open areas and detailed use of such areas;
4. Screening and buffers to minimize visual impacts of the proposed use on adjacent property, including the use of building orientation, setbacks, landscape and other design criteria;

5. A parking plan which fully describes where and how parking is to be provided and utilized.
 6. Mitigation techniques to abate smoke, odor, noise, and other noxious impacts. If the proposed establishment is within 200 feet of residential uses, a noise attenuation plan.
 7. A sanitation plan, which addresses on-site facilities and off-premises issues resulting from the operation of the establishment.
- c. An application fee.
 - d. A written summary and renderings of the proposed project.
 - e. Ownership affidavit or owner's sworn consent, if applicable.
 - f. For establishments proposing occupancy levels of more than 300 persons, an indoor/outdoor crowd control plan addressing how people waiting to gain entry into the establishment or already on the premises, will be controlled.
- (4) General standards of review. All proposed conditional uses shall meet each of the following standards:
- a. The proposed use shall be consistent with the Comprehensive Plan;
 - b. The establishment, maintenance or operation of the proposed use shall not be detrimental to or endanger the public health, safety, or general welfare;
 - c. The proposed use shall be consistent with the community character of the immediate neighborhood of the proposed use;
 - d. Utilities, roadway capacity, drainage, and other necessary public facilities, including police, fire and emergency services, shall exist at the city's adopted levels of service.
 - e. Adequate measures exist or shall be taken to provide ingress and egress to the proposed use in a manner that minimizes traffic congestion in the public streets;
 - f. The establishment of the conditional use shall not impede the development of surrounding properties for uses permitted in the zoning district; and

- g. The design of the proposed use shall minimize adverse effects, including visual impacts, of the proposed use on adjacent property through the use of building orientation, setbacks, buffers, landscaping and other design criteria.
- (5) Review by city council. The city council may attach such conditions to the approval as it deems necessary to ensure the proposed use conforms to the standards set forth in the general standards of review and to prevent or minimize adverse effects on other property in the neighborhood. A declaration of restrictive covenants providing such conditions and limitations of use shall be recorded in the public records of the county, after the effective date of the ordinance from which this section is derived. The city council may also require formal approval of a final site plan prior to the issuance of building permits.
- (6) Expiration of conditional use approval. Unless otherwise provided in the approval, the approval of a conditional use application shall be void if the recipient does not obtain a building permit for the proposed development within 12 months after the date of the approved ordinance. An applicant who has obtained a conditional use approval may request a one-time extension of this time period by filing an application prior to the expiration of the first approval term for an additional six (6) months.

*

*

*

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.

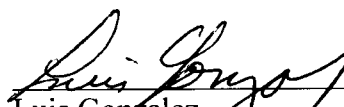
Section 5: Severability Clause.

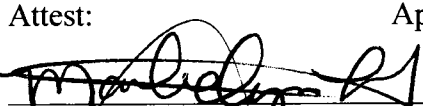
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

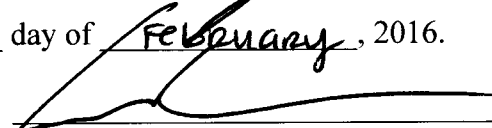
Section 6: Effective Date.

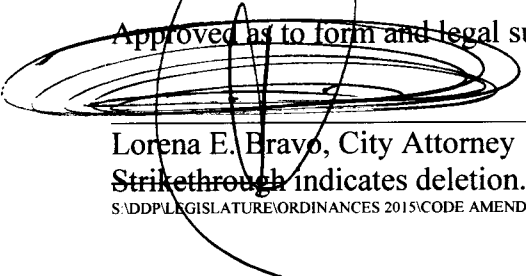
This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

THE FOREGOING ORDINANCE AND ADOPTED this 26 day of January, 2016.
PUBLISHED IN ACCORDANCE WITH THE PROVISIONS OF FLORIDA STATUTE 166.041 PRIOR TO FINAL READING.


Luis Gonzalez
Council President

Attest:

Marbelys Fatjo, City Clerk

Approved on this 1 day of February, 2016.

Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

Lorena E. Bravo, City Attorney

Strikethrough indicates deletion. Underline indicates addition
S:\DDP\LEGISLATURE\ORDINANCES 2015\CODE AMENDMENTS\Ch98amendment-98-1630 2

Ordinance was adopted by a (7-0) unanimous vote with Councilmembers, Caragol, Cue-Fuente, Garcia-Martinez, Hernandez, Gonzalez, Lozano and Casáls-Muñoz voting "Yes".