



CFN 2013R0686527  
DR Bk 28796 Pgs 1984 - 1988; (5pgs)  
RECORDED 08/29/2013 09:08:14  
HARVEY RUVIN, CLERK OF COURT  
MIAMI-DADE COUNTY, FLORIDA

Prepared by and return to:  
City of Hialeah  
Planning Division  
501 Palm Avenue, Second Floor  
Hialeah, FL 33010

### DECLARATION OF RESTRICTIVE COVENANTS

I, Giovanna Barcia, District Manager and intending to legally bind GameStop, Inc. DBA GameStop #4600 as being the tenant of lands described as

A portion of Parcel 2, Westland Mall, according to the Plat thereof, as recorded in Plat Book 91, at Page 1, of the Public Records of Miami-Dade County, Florida.

The street property address is 1645 West 49 Street, Suite 1348; Hialeah, Florida 33012.

The folio number is 04-3002-005-0040.

make the following Declaration of Restrictive Covenants covering and running with the above property, specifying that this restriction during its lifetime shall be for the benefit of and a limitation upon all present and future owners of the real property described above, in favor of and enforceable by the City of Hialeah, Florida. The undersigned makes these covenants in connection with the operation of a business store at the above described location.

In connection therewith, the undersigned covenants, represents and agrees as follows:

1. The only secondhand goods permitted to be purchased, traded or consigned at the premises shall be used or previously owned entertainment video game consoles, including handheld game consoles, such as but not limited to PlayStation, Xbox, Gameboy, PSP or Nintendo DS, video games and accessories used with these game consoles, and smart phones.
2. This covenant is intended and shall constitute a restrictive covenant concerning the use, enjoyment, and title to the above-described property and shall constitute a covenant running with the land and may be recorded in the Public Records of Miami-Dade County, Florida. This covenant shall remain in full force and effect and shall be binding upon the undersigned, its (their) heirs, successors and assigns until such time as the same is modified, amended or released and may only be modified, amended or released by a written instrument executed by the then owner having fee simple title to the property affected or to be affected by such modification, amendment, or release; provided, however, the same is also approved by the City Council and the Mayor of the City of Hialeah, or its successors, by resolution, upon advertised notice, or by ordinance if the covenant is adopted by ordinance or as otherwise provided in Hialeah Charter.
3. Where construction has occurred on said property described herein, pursuant to a permit issued by the City of Hialeah, and inspection made and approval of occupancy given by the City, the same shall create a conclusive presumption that the improvements thus constructed comply with the intent and spirit of the restrictions referenced herein and this Declaration of Restrictive Covenants shall not be construed as clouding title of any of said property on which such development has occurred.

DECLARATION OF RESTRICTIVE COVENANTS

IN WITNESS WHEREOF, We have hereunto set out hands and seals at  
MIAMI, Florida, this 19 day of JULY 2013.  
(location)

Name of Corporation: GameStop, Inc. DBA  
GameStop #4600

Signed, sealed and delivered in the presence of:

By: *Giovanna Barcia*  
Giovanna Barcia / District Mgr.  
Print Name and Capacity of Officer

*Mate Luque*  
Witness  
Typed/Printed Name MATE LUQUE.

*Veronica Sagastume*  
Witness  
Typed/Printed Name Veronica Sagastume

Corporate Seal

STATE OF FLORIDA  
COUNTY OF MIAMI DADE

This foregoing instrument was acknowledge before me on the 19 Day of JULY, 2013 by GIOVANNA BARCIA as District Manager of GameStop, Inc.

They are personally known to me or have produced the following as identification and did (did not) take an oath and who attest to the truth and accuracy of the representations contained herein.

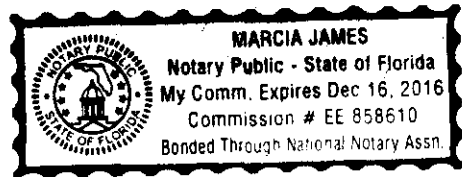
This document was prepared by:  
MARCIA JAMES  
Name

*Marcia James*  
Signature of Notary Public

13430 SW 120st  
Street

MARCIA JAMES  
Name of notary typed, printed, or stamped  
Commission Number:

MIAMI FL 33186  
City State Zip Code



**ORDINANCE NO. 2013-46**

ORDINANCE GRANTING A VARIANCE PERMIT TO ALLOW A DISTANCE OF 500 FEET FROM AN EXISTING SECONDHAND DEALER, WHERE A 2,500-FOOT DISTANCE RADIUS IS REQUIRED, CONTRA TO HIALEAH CODE §§ 98-1111(21). **PROPERTY LOCATED AT 1645 WEST 49 STREET, HIALEAH, FLORIDA.** 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 June 12, 2013 recommended approval of this ordinance; and

**WHEREAS**, the applicant proffered a Declaration of Restrictive Covenants limiting secondhand transactions to electronic game systems, games and accessories only, to which the City accepts.

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 a distance of 500 feet from an existing secondhand dealer, where a 2,500 foot distance radius is required, contra to Hialeah Code §98-1111(21), which provides in pertinent part: “Secondhand (merchandise) dealers and precious metals dealers – Distance separation requirements. Where either a secondhand (merchandise) dealer, as defined in article VIII of chapter 18, or precious metals dealer, as defined in article VII of chapter 18, is a permitted use, it shall not be located within a 2,500-foot radius of any other secondhand (merchandise) dealer or precious metal dealer use.” Property located at 1645

West 49 Street, Suite 1348, Hialeah, Miami-Dade County, Florida, zoned C-2 (Liberal Retail Commercial District), and legally described as follows:

A PORTION OF PARCEL 2, WESTLAND MALL, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 91, PAGE 1, 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.

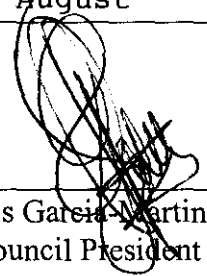
**Section 4: Severability Clause.**

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 13 day of August, 2013.

  
\_\_\_\_\_  
Isis Garcia-Martinez  
Council President


Attest:

Approved on this 16 day of August, 2013.

  
\_\_\_\_\_  
Marbelys Fatjo, Acting City Clerk

  
\_\_\_\_\_  
Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

  
\_\_\_\_\_  
William M. Grodnick, City Attorney

SALEB\LEGISLATION\2013-ORDS\1645West49Street-Ste1348-distfromexist2nddealeruse-JUN12.doc

Ordinance was adopted by a 6-0-1 vote with Councilmembers, Caragol, Cue-Fuente, Garcia-Martinez, Gonzalez, Hernandez and Lozano voting "Yes", Councilmember Casals-Munoz absent.