

ORDINANCE NO. 2018-133

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING THE CODE OF ORDINANCES OF THE CITY OF HIALEAH, CHAPTER 98 ENTITLED "ZONING", ARTICLE V. ZONING DISTRICT REGULATIONS, DIVISION 11 LANDSCAPING, SECTION 98-2233, WAIVER OF MINIMUM LANDSCAPING REQUIREMENTS; LANDSCAPE MITIGATION, TO ALLOW FOR WAIVERS OF THE CITY'S MINIMUM LANDSCAPING REQUIREMENTS AS MAY BE APPROPRIATE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board at its meeting of October 24, 2018 recommended approval of this ordinance.

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

Section 1: Chapter 98, entitled "Zoning", Article V. Zoning District Regulations Division 11 Landscaping, of the Code of Ordinances of the City of Hialeah, Florida is hereby amended by revising Hialeah Code Section 98-2233, Waiver of Minimum Landscaping Requirements; Landscape Mitigation to read as follows:

Chapter 98

ZONING

* * *

ARTICLE V. ZONING DISTRICT REGULATIONS

* * *

DIVISION 11 "LANDSCAPING"

* * *

Section 98-2233 Waiver of Minimum Landscaping Requirements; Landscape Mitigation.

The city council, by ordinance, may waive the minimum landscaping requirements of the Miami-Dade County Landscape Manual, and Hialeah Landscape Manual, latest edition dated July 9, 2015, as may be amended. Such a waiver must be predicated on physical limitations and restrictions on the property. In order to protect and maintain the tree canopy and landscape cover of the city, the grantee of a waiver of minimum landscaping requirements shall mitigate the loss of tree canopy and landscape cover on the affected property by providing new, viable trees and landscaping acceptable to the city as represented by the difference between the required number of trees and landscaping (shrubbery and ground cover) and the actual number of trees and landscaping allowed by waiver granted by the city. The trees and landscaping shall be delivered to the city for planting in areas within the city, such as parks, recreation and open spaces and street medians, as designated by the city.

* * *

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All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.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

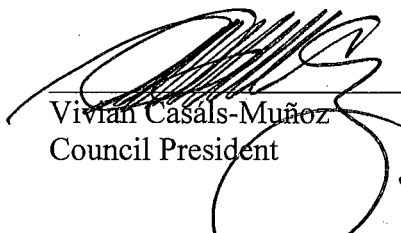
invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

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.

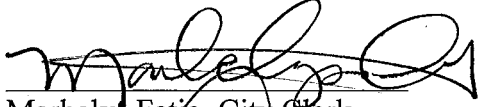
PASSED and ADOPTED this 27 day of November, 2018.

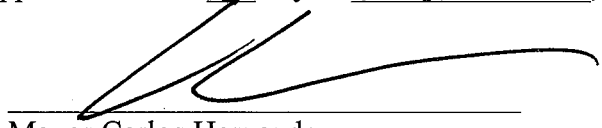
THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.


Vivian Casals-Muñoz
Council President

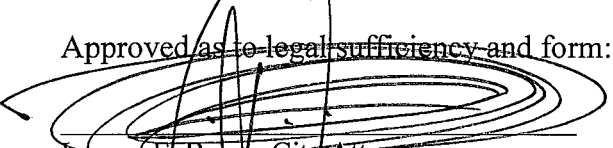
Attest:

Approved on this 6 day of December, 2018.


Marbelys Fajó, City Clerk


Mayor Carlos Hernandez

Approved as to legal sufficiency and form:


Lorena El Bravo, City Attorney

Strikethrough indicates deletion. Underline indicates addition.

S:\DJ\ORDINANCES\Sec. 98-2233 Amend of City landscape manual to provide for waivers.docx

11/6/2018 9:08 AM

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

ORDINANCE NO. _____

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 11 "LANDSCAPING", SECTION 98-2233 "WAIVER OF MINIMUM LANDSCAPING REQUIREMENTS; LANDSCAPE MITIGATION", OF THE CODE OF ORDINANCES OF THE CITY OF HIALEAH, TO ALLOW FOR WAIVERS OF THE CITY'S MINIMUM LANDSCAPING REQUIREMENTS AS MAY BE APPROPRIATE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

ITEM 14
10-24-18

With Item # 3L

NOV 13 2018

WHEREAS, the Planning and Zoning Board at its meeting of _____, 2018 recommended approval of this ordinance.

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

Section 1: Chapter 98, entitled "Zoning", Article V. "Zoning District Regulations" Division 11 "Landscaping", of the Code of Ordinances of the City of Hialeah, Florida is hereby amended by revising Hialeah Code Section 98-2233 "Waiver of Minimum Landscaping Requirements; Landscape Mitigation" to read as follows:

Chapter 98

ZONING

* * *

ARTICLE V. ZONING DISTRICT REGULATIONS

* * *

DIVISION 11 "LANDSCAPING"

* * *

Section 98-2233 Waiver of Minimum Landscaping Requirements; Landscape Mitigation.

The city council, by ordinance, may waive the minimum landscaping requirements of the Miami-Dade County Landscape Manual, and Hialeah Landscape Manual, latest edition dated July 9, 2015, as may be amended. Such a waiver must be predicated on physical limitations and restrictions on the property. In order to protect and maintain the tree canopy and landscape cover of the city, the grantee of a waiver of minimum landscaping requirements shall mitigate the loss of tree canopy and landscape cover on the affected property by providing new, viable trees and landscaping acceptable to the city as represented by the difference between the required number of trees and landscaping (shrubbery and ground cover) and the actual number of trees and landscaping allowed by waiver granted by the city. The trees and landscaping shall be delivered to the city for planting in areas within the city, such as parks, recreation and open spaces and street medians, as designated by the city.

* * *

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 ___ day of _____, 2018.

Vivian Casáls-Muñoz
Council President

Attest:

Approved on this ___ day of _____, 2018.

Marbelys Fatjo, City Clerk

Mayor Carlos Hernandez

Approved as to legal sufficiency and form:

Lorena E. Bravo, City Attorney

Strikethrough indicates deletion. Underline indicates addition.