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ORDINANCE NO. 2012 - 17

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF HALLANDALE BEACH, FLORIDA, AMENDING CHAPTER 5 "ALCOHOLIC BEVERAGES," SECTION 5-6. DISTANCES BETWEEN BUSINESSES AND FROM SCHOOLS, CHURCHES AND PUBLIC PARKS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A CODIFICATION CLAUSE; PROVIDING AN EFFECTIVE DATE; PROVIDING A REPEAL CLAUSE; PROVIDING A CONFLICT CLAUSE; AND FOR ALL OTHER PURPOSES.

WHEREAS, Section 5-6 (h) provides for a procedure for the granting of a variance from the distance requirements between businesses and from schools, churches and public parks; and

WHEREAS, Section 5-6 is not a part of the land use requirements of the City Code of Ordinances and therefore is not considered a quasi-judicial matter; and

WHEREAS, the usage of the wordage "variance" is confusing as to the requirements during the public hearing; and

WHEREAS, the city administration recommends amending Section 5-6(h) to substitute the word "Waiver" for "Variance" to provide clarity; and

WHEREAS, the Mayor and City Commission have determined it is in the best interest of the City to amend Section 5-6 (h) to allow the substitution.

NOW, THEREFORE BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF HALLANDALE BEACH, FLORIDA:

SECTION 1. Chapter 5 "Alcoholic Beverages," Section 5-6. Distances between businesses and from schools, churches and public parks is hereby amended to read as:

* * *

Sec. 5-6. Distances between businesses and from schools, churches and public parks.

(h) *Waivers.*

39 (1) The City Commission may grant a waiver to any of the provisions contained in
40 this section, subject to the following limitations:

41 a. The applicant shall file an application and pay an application fee. Such fee is on
42 file in the Development Services Department.

43 b. The City Commission must hold a public hearing with prior written notice by
44 certified mail being given to the affected parties. With respect to a waiver from
45 the establishment separation requirement, the notice shall be to any such
46 establishment within the specified distance. With respect to the separation
47 requirements from churches and schools, notice shall be to the church or school,
48 as appropriate. With respect to public schools, notice shall be sent to the
49 principal and to the school board of the county.

50 c. All waivers granted are subject to revocation by the City Commission if adverse
51 effects on the affected parties result.

52 d. The applicant is required to demonstrate that the granting of the waiver will not
53 have any substantial or material adverse effect on the parties sought to be
54 protected by the particular provision sought to be varied, and that the spirit and
55 intent of this section will not be violated.

56 (2) The granting of the authority to the City Commission to grant waivers to this section is
57 expressly declared to be nonseverable from the requirements and limitations imposed on the
58 exercise of that authority, and the invalidity of any of those provisions shall result in the invalidity
59 of that grant of authority.

60 * * *

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62 **SECTION 2. Conflict.**

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64 All ordinances or parts of ordinances, all City Code sections or parts of City Code
65 Sections, and all resolutions or parts of resolutions in conflict with this Ordinance are hereby
66 repealed to the extent of such conflict

67 **SECTION 3. Severability.**

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69 Should any provision of this Ordinance be declared by a court of competent jurisdiction
70 to be invalid, such decision shall not affect the validity of this Ordinance as a whole or any
71 portion thereof, other than the part so declared to be invalid.

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SECTION 4. Codification.

Upon adoption, this Ordinance shall be codified and become a part of the Code of Ordinances of the City of Hallandale Beach.

SECTION 5. This Ordinance shall take effect immediately upon adoption.

PASSED AND ADOPTED on First Reading on June 20, 2012.

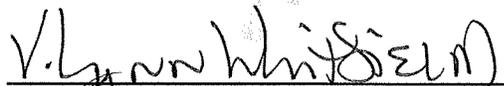
PASSED AND ADOPTED on Second Reading on August 1, 2012.


MAYOR-COMMISSIONER

ATTEST:


CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY
FORM


V. LYNN WHITFIELD
CITY ATTORNEY

	VOTE
	AYE/NAY
Mayor Cooper	<input checked="" type="checkbox"/>
Vice Mayor Sanders	<input checked="" type="checkbox"/>
Comm. Lewy	<input checked="" type="checkbox"/>
Comm. London	<input checked="" type="checkbox"/>
Comm. Ross	<input checked="" type="checkbox"/>