



Planning and Zoning Board
Jarvis Hall 4505 N. Ocean Drive 33308

Planning and Zoning Board

Planning and Zoning Board

Wednesday, October 6, 2021, 6:00 PM
Jarvis Hall 4505 N. Ocean Drive 33308

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. APPROVAL OF MINUTES

- 3.a. JUNE 2, 2021 PLANNING AND ZONING BOARD MINUTES- AMENDED
[JUNE 2021 P&Z MINUTES REVISED.docx](#)
[REQUESTED CHANGES TO JUNE MINUTES.pdf](#)
- 3.b. SEPTEMBER 15, 2021 PLANNING AND ZONING BOARD MINUTES
[PZ SEPTEMBER 15 MINUTES.docx](#)

4. PUBLIC COMMENTS

5. NEW BUSINESS

6. OLD BUSINESS

- 6.a. ORDINANCE 2021-10: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 30 “UNIFIED LAND DEVELOPMENT REGULATIONS,” SECTION 30-11, “DEFINITIONS” TO DEFINE “TOBACCO PARAPHERNALIA STORES;” AMENDING SUBDIVISIONS L AND M, B-1-A AND B-1 DISTRICT REGULATIONS, TO CHANGE THE LISTS OF PERMITTED AND CONDITIONAL USES AND CREATE SUPPLEMENTAL REGULATIONS; CREATING SECTION 30-281 TO PROVIDE FOR AMORTIZATION OF EXISTING TOBACCO PARAPHERNALIA STORES IN THE B-1 ZONING DISTRICTS; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND FOR AN EFFECTIVE DATE
[Staff Memo B-1 10.1.21 JMC.pdf](#)
[Ex_1-4-27-21_AM_Town_Manager_Report-FINAL.pdf](#)
[Ex_2-_Minutes_2021-04-27_-_Regular.pdf](#)
[Ex_3-_Planning_and_Zoning_and_TC_Minutes_2010-_FINAL.pdf](#)
[Ex_4-Ordinance_2010-15.pdf](#)
[Ex 5-B_uses_8.27.21_version.pdf](#)

7. UPDATES/BOARD MEMBER COMMENTS

8. ADJOURNMENT

THE TOWN OF LAUDERDALE-BY-THE-SEA WILL FURNISH APPROPRIATE AUXILIARY AIDS AND SERVICES NECESSARY TO AFFORD INDIVIDUALS AN EQUAL OPPORTUNITY TO PARTICIPATE IN MEETINGS OF THE TOWN COMMISSION. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT AND FLORIDA STATUTE 286.26, PERSONS WITH DISABILITIES NEEDING SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS PROCEEDING SHOULD CONTACT THE TOWN CLERK NO LATER THAN TWO (2) DAYS PRIOR TO THE MEETING AT (954) 640-4200 FOR ASSISTANCE.

IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE TOWN COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING OR HEARING, HE/SHE WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSES MAY NEED TO INSURE THAT A VERBATIM RECORDING OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

PROCEDURES FOR PUBLIC COMMENTS:

Public Comments may address issues that are not on this meeting's agenda, but should relate to the business of the Town,

and should not contain personal attacks. If your comment requires follow up, the Town Manager will have a staff person respond to your concerns, and will advise us of the outcome.

The Town Clerk will read off the names of those who have signed up to speak. When your name is called, please come to the podium, state your name for the record, and indicate whether you are a Town resident. Do not state your address. You have up to three minutes to make your comments, but there is no requirement to use the entire time. If you wish to address a particular Commissioner or member of Town Administration, please do so by use of their title.

If you wish to approach the Commission dais to hand out a document or for some other reason, please request permission and state your reason for doing so. All documents to be provided to the Commission should be handed to the Town Clerk for distribution.

These procedures have been developed to assure that the Town Commission meeting time is efficiently used, and that meetings are conducted in a polite and respectful manner. More information on the decorum rules for Town Commission meetings is available in Section 2-23 of the Town Code of Ordinances.

**REVISED
NON APPROVED**

**TOWN OF LAUDERDALE-BY-THE SEA
PLANNING AND ZONING BOARD MEETING MINUTES
LIVE STREAMED FROM JARVIS HALL
Wednesday, June 2, 2021**

1. CALL TO ORDER

Planning Technician Sydney Ramirez called the Planning and Zoning (P&Z) Board meeting for the Town of Lauderdale-By-The-Sea (L-B-T-S) to order at approximately 5:00PM.

ROLL CALL

Members present were Ron Piersante, Charles Wayne Dillistin, Vice Chair Christina Buerosse, 1st Alternate Patricia Omana, and 2nd Alternate Karen Sylvester. The absentee members were Chair David Chanon and Alan Bluestein. Also present were Acting Development Services Director Jhanelle Campbell, Planning Technician Sydney Ramirez, and Town Attorney Chanae Wood.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

3. APPROVAL OF MINUTES

a. Previous Planning & Zoning (P&Z) Meeting Minutes – March 3, 2021

Vice Chair Christina Buerosse called this agenda item and without objection, the Board unanimously approved the minutes of the March 3, 2021 virtual meeting without any changes.

4. PUBLIC COMMENTS

As there were no members of the public who wished to speak or comment on anything not specific to the items on the agenda, the Vice Chair closed this portion of public comments.

5. TOWN PLANNER REPORT

a. Development Services Report

Acting Development Services Director Campbell explained that the report showed what was happening now and what was coming down the pipeline. Mr. Dillistin asked about RM-25 lots and Ms. Campbell explained that they were lots less than 60' in width and west of and fronting Bougainvillea Drive in the RM-25 zoning district. She further clarified that this was residential zoning and these lots could not rent short-term. She answered that there were multi-family properties incorporated in this zone. The Town Commission directed staff to delete the provision from the code to allow short-term rentals. Mr. Dillistin clarified that the Town Commission wanted to allow short term meaning Vrbo rentals and that all these are coming back to P&Z for discussion. Mr. Dillistin also wanted to know about Marina/230 Basin Drive and Ms. Campbell explained about a submittal for redevelopment of the site. *Part of the request was to vacate a portion of the right of way, a portion of Basin Drive. It was about 12 feet of right of way from the property line.* It was also a request to allocate flex units. She explained what flex units were and that she would do research regarding if there could be short-term rental for these flex units. She would have this information available when this item would be on a future agenda. Acting Development Services Director Campbell answered Ron Piersante that putting in part of the canal that they owned was

not in this application. She answered him that a traffic study would be part of this application as he voiced concern regarding one lane of traffic.

Mr. Dillistin asked about 4412/4416 W Tradewinds (zoning relief). He felt that we should not be giving them any leeway to let them re-apply regardless if it was previously a Sober Home or not. Acting Development Services Director Campbell informed Mr. Dillistin that it was not for recovery but that it just served as a residential facility for people in recovery. Vice Chair Buerosse questioned why it was coming before P&Z. Was it because they sold the property that it was before the P&Z now and if the Town would have known if their BTR license was not renewed. Vice Chair Buerosse also asked how many of these homes were there in Town and were catches in place for them regarding renewing licenses and how long these licenses were for. Mr. Dillistin commented that there was a place for them but it is not in a residential community with children, etc. The Board was told that this was a request to run just the residential component of a substance abuse and treatment facility which was operational now. This property has changed ownership and the zoning relief previously obtained was not transferable. Vice Chair Christina Buerosse asked about license renewal, how many types of facilities were located in the Town, and what types of services were provided (e.g., special needs, etc.) in L-B-T-S. Ms. Campbell explained and spoke about the L-B-T-S Business Tax Receipt (BTR) process. She answered that part of the requirement for this application was that people within 300 feet of the property must be noticed. Vice Chair Christina Buerosse suggested listing things like this on the Town's website or placing helpful links on the website. *Vice Chair Buerosse and Mr. Dillistin clarify that the BTR license did not transfer over and the license process started over. Acting Development Services Director Campbell explained that it has changed ownership and that was why the Town had to go through the whole process again. As part of this application, everyone within 300 ft. was notified, with signs posted on property, etc. Vice Chair Buerosse requested to have it posted on the Town website, if it was allowed, to give our residents as much information as possible. Mr. Dillistin asked if you would really put a sober home with all our bars. Actually, restaurants with really good bars since L-B-T-S did not allow bars. We did have one bar that has been here.* They spoke about the items on the report that would go directly to the Town Commission. Discussion ensued about allowing dogs in parks. The Vice Chair opened public comments but no one requested to speak and there were no other board questions and/or comments. She closed this agenda item.

6. NEW BUSINESS

a. Historic Preservation – County Changes to its Ordinance

Acting Development Services Director Jhanelle Campbell explained that in its newest amendment, Broward County required municipalities to become Certified Local Governments (CLG) by November 15, 2021 in order to maintain their own historic preservation ordinance or the municipality would be subject to the county's historic preservation ordinance. Since becoming a CLG would be a big undertaking and required much of staff's time, the Town Commission directed staff to draft an ordinance (Ordinance 2021-04) to repeal the Town's Historic Preservation Ordinance. To facilitate this, applicable Town Code provisions would have to be changed and references to historic preservation would have to be removed. This would all be done prior to the first reading of Ordinance 2021-04 and staff recommended approval of this ordinance. Ms. Campbell answered the Vice Chair that she was unsure why the county required CLG designation, if we maintained our own historic preservation ordinance. She further answered that since we established our own ordinance, there were no applications for historic designation. Ron Piersante named two properties that he thought were historic. The Vice Chair opened public comments but no one requested to speak and there were no other board questions and/or comments. She closed this agenda item.

Ms. Sylvester made a motion to recommend approval of Ordinance 2021-04 to the Town Commission. The motion was seconded by Mr. Dillistin. The motion carried 5-0.

7. OLD BUSINESS

8. UPDATES/BOARD MEMBER COMMENT

Jhanelle Campbell said that the next meeting would be July 7, 2021 and she discussed what would be on the agenda.

9. ADJOURNMENT

Mr. Dillistin made a motion to adjourn at approximately 5:26PM. The motion was seconded by Mr. Piersante. The motion carried 5-0.

Vice Chair Christina Buerosse

ATTEST:

Date Accepted: _____

Acting Development Services Director Jhanelle Campbell

RE: Meeting Minute Amendments: https://lbts.granicus.com/MediaPlayer.php?view_id=4&clip_id=1252

The following markers on the video are where I have amendments to the 5a portion of the meeting minutes specifically at these markers on the town video of the P&Z meeting for June 2nd 2021:

5. TOWN PLANNER REPORT

a. Development Services Report

Acting Development Services Director Jhanelle Campbell explained that the report showed what was happening now and what was coming down the pipeline. Wayne Dillistin asked about RM- 25 lots and Ms. Campbell explained that they were lots less than 60' in width and west of and fronting Bougainville Drive in the RM-25 zoning district. She further clarified that this was residential zoning and these lots could not rent short-term. She answered that there were multi- family properties incorporated in this zone. **(1)** Mr. Dillistin also wanted to know about Marina/230 Basin Drive and Ms. Campbell explained about a submittal for redevelopment of the site. Part of the request was to vacate a portion of the right-a-way **(2)** and also a request to allocate flex units. She explained what flex units were and that she would do research regarding if there could be short-term rental for these flex units. She would have this information available when this item would be on a future agenda. Acting Development Services Director Campbell answered Ron Piersante that putting in part of the canal that they owned was not in this application. She answered him that a traffic study would be part of this application as he voiced concern regarding one lane of traffic.

Mr. Dillistin asked about 4412/4416 W Tradewinds (zoning relief). **(3)** This was a request to run just the residential component of a substance abuse and treatment facility which was operational now.

This property has changed ownership and the zoning relief previously obtained was not transferable. Vice Chair Christina Buerosse asked about license renewal, how many facilities were located in the Town, and what types of services were provided (e.g., special needs, etc.) in L-B-T-S. Ms. Campbell explained and spoke about the L-B-T-S Business Tax Receipt (BTR) process. She answered that part of the requirement for this application was that people within 300 feet of the property must be noticed. Vice Chair Christina Buerosse suggested listing things like this on the Town's website or placing helpful links on the website. **(4)** They spoke about the items on the report that would go directly to the Town Commission. Discussion ensued about allowing dogs in parks. The Vice Chair opened public comments but no one requested to speak and there were no other board questions and/or comments. She closed this agenda item.

(1) MARKER: 03:12 - 4:19 | She further clarified that this was residential zoning and these lots could not rent short-term. She answered that there were multi- family properties incorporated in this zone.

- *Please amend to include as follows: that the commission directed her to delete that provision from the code to allow the short term rentals along with Mr Dillistin clarifying that the commission means to Allow short term / meaning VRBO rentals and that all these are coming back to the P&Z for discussion.*

(2) MARKER: 04:50 - 5:10 | Part of the request was to vacate a portion of the right-a-way and also a request to allocate flex units.

- *Please amend to include as follows: Part of the request was to vacate a portion of the right of way, being a portion of Basin Drive, thats its about 12 ft of right of way from the property line.*

(3) MARKER: 08:10 - 10:23 | Mr. Dillistin asked about 4412/4416 W Tradewinds (zoning relief).

Please amend to include more of the discussion: That Mr Dillistin feels that we should not be giving any leeway, to let them re-apply regardless if it was previously a Sober Home or not...Jhanelle informs the Mr Dillistin that it is not for recovery just serves as a residential facility for people in recovery VC questions why it's coming up before the P&Z now. If it is because they sold the property that it is before the P&Z now and if the town would have known if their BTR license was up for renewal VC also asks how many of these homes there are in town, if there are any catches in place for them and how long these licenses are for? ... Mr Dillistin comments that there is a place for them and it is not in residential community with kids and so forth.

(3) MARKER: 11:48 - 15:08

- *Please amend to include more of the discussion particularly where: VC-Buerosse and Mr. Dillistin clarify that that the BTR license does not transfer over and the license process starts over. Jhanelle explains that it has changed ownership and thats why the town has to go through the whole process again. ... As part of this application everyone with-in 300 ft gets notified, signs posted on property and so forth... and that VC-Buerosse request to have it posted on the Town Site, if its allowed, to give our residents as much information as possible since they kids and so forth....that Mr Dillistin asks if you would really put a sober home with all our bars in? (more specifically restaurants with really good bars since LBTS does not allow bars) although we have one bar thats been here.*

NON APPROVED
TOWN OF LAUDERDALE-BY-THE SEA
PLANNING AND ZONING BOARD MEETING MINUTES
LIVE STREAMED FROM JARVIS HALL
Wednesday, September 15, 2021

1. CALL TO ORDER

Vice Chair Christina Buerosse called the Planning and Zoning (P&Z) Board meeting for the Town of Lauderdale-By-The-Sea (L-B-T-S) to order at approximately 6:00PM.

ROLL CALL

Planner Susan Levin called the roll and members present were Ron Piersante, Vice Chair Christina Buerosse, Charles Wayne Dillistin, 1st Alternate Patricia Omana, and 2nd Alternate Karen Sylvester. The absentee members were Chair David Chanon and Alan Bluestein. Also present were Town Attorney Susan Trevarthen, Acting Development Services Director Jhanelle Campbell, and Planner Susan Levin.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

3. APPROVAL OF MINUTES

a. Planning & Zoning (P&Z) Meeting Minutes – June 2, 2021

Board Member Dillistin said that his amendment was not reflected. Acting Development Services Director Campbell said that historically, the Town did not go into that level of detail nor did they reflect verbatim typing of conversations in the past. Town Attorney Trevarthen informed that the law required action minutes and the Town has much more detail than that. Not typing conversations avoided the cascading effect of having what one person said or asked for and not doing the same for others. The meetings were videoed and can be seen on the Town's website, so anyone could see what a board member said. The minutes should be a summary reflection of what happened. Board Member Sylvester would like to see what Board Member Dillistin proposed and Vice Chair Buerosse agreed. It was unanimously decided to bring these minutes back to the next meeting. Mayor Vincent asked his staff if it could be policy directed that what a board member requested to be reflected in the minutes would be there. Town Attorney Trevarthen explained that all municipalities, not just this Town, felt that when the nature of the amendment was to fill in all the gaps, it would take us to a different level of detail. The minutes were presented for corrections, amendments, etc. but not to change the level of detail. We would bring these minutes back to the next P&Z Meeting so the board could see the substance of changes that Board Member Dillistin has requested.

b. Planning & Zoning (P&Z) Meeting Minutes – September 1, 2021

Board Member Sylvester made a motion to approve the minutes of the P&Z regular meeting of September 1, 2021 as presented. The motion was seconded by Board Member Piersante. The motion carried 5-0.

4. PUBLIC COMMENTS

David S addressed the board and his comments included but were not limited to: He felt that this was right for DelacaSeas and that Paul was a resident and a productive member of the community. Paul worked very hard and was a great asset to the community. He opined that bringing back a periodical store fit in with our small town feel. The request would make for a perfect fit for that spot and Paul was the perfect man for the job. The vacancy was an eyesore and David hoped this would be seen through to the end as it was a perfect fit.

Barbara Cole, resident, felt that for this section of public comments, she wanted to state that she felt very proud when the board members voiced their opinions about grandfathering in the single-family home on September first. She informed that last Monday night was the first reading at the Town Commission and she sensed that the Commission did not understand what was expressed by those who opposed. There would be a second reading on September 28th and this would be the time if you wanted to clarify why your vote for grandfathering was different than your vote on July 7th when you voted to let the single-family home go forward. She urged the board members to send their public comments in representing themselves and not representing the board.

Town Attorney Trevarthen explained that each member of the Planning and Zoning Board was also a resident of the Town and was fully entitled to raise their concerns. The only thing that was asked of the board members was that whenever an individual appeared before another board, to be perfectly clear that they were speaking on their own behalf. When a board discussed something and decided collectively that they wanted to convey a message, their voting accomplished that and staff would convey it forward. However, there could be a time when the chair or a board member was specifically authorized to speak for the board before another board. For the record, there were no other public comments at this time.

5. NEW BUSINESS

a. Case Number 2021-L2-SPM-01:

Level 2 Site Plan Modification 4404 Bougainvilla Drive (aka 217 Commercial Boulevard) (Delacaseas Restaurant) for the expansion of an existing storefront.

Acting Development Services Director Campbell explained that this was a site plan modification application to expand an existing restaurant. The applicant has recently rented the storefront immediately to the south of the existing restaurant. This was previously occupied by Old City News Stand. The site plan modification was submitted to expand the storefront to include the Old City News Stand space. This would give the restaurant more seating and storage space. As a result of the requested expansion, parking requirements have changed requiring two additional parking spaces. The applicant has chosen Payment In Lieu Of Parking (PILOP) to meet the additional parking requirements. The PILOP agreement was approved and executed and the first payment was made. She spoke about the seven criteria that had to be met, for the site plan modification to go forward. Staff felt that they met the criteria. She went over other things that were reviewed in relation to the application which included but was not limited to that there were no changes to the footprint of the building so there were no setback differences. No changes to landscaping were triggered by this. She explained the proposed conditions for approval and said Staff recommended approval with these conditions.

The application would go before the Town Commission on September 27, 2021. She asked for board questions and answered Board Member Sylvester's question regarding that the expansion was only for the restaurant's expansion for their customer service area. Ms. Campbell also stated that the applicant was here to answer any questions. As there were no other board questions, the Vice Chair opened the floor to public comments.

Barbara Cole, resident, said that this expansion west of A1A was what most people in Town were hoping for. She spoke about a parking program that was brought up by the Mayor at a Town Commission Meeting whereas parking spaces were sold for \$5,000. Vice Chair Buerosse said \$5,000 for each of the first two spaces. She felt that owners like this one who put their heart and soul into making us a boutique, unique Town, that amount of money was a hardship. She thought that maybe the board could opine with doing away with that.

No other members of the public wished to speak but the applicant, Paul Mangiardi, went up to the podium and introduced himself as the owner of DelacaSeas Café. He said that with the expansion, his plans were set back somewhat because he was spending money for parking, etc. This amount of money for parking for such a small space could have gone for better things to provide for the community. There were no other requests for public comments. Board Member Dillistin wanted to know what happened to the parking spaces that were for the Old City News Stand. Acting Development Services Director Campbell answered the news stand had a lower parking requirement than a restaurant. It went from retail to restaurant, intensifying the parking requirements for DelacaSeas. Board Member Dillistin wanted to know if they could make a motion to suggest the Commission waive the money for parking spaces or find other sources (maybe Cares Funding) for this. He would like to see the Town take some kind of positive action and show some good faith to the small business community on this side of Commercial Boulevard. This really was a financial burden on Paul. Town Attorney Trevarthen said that the PILOP program was not in front of them for approval but the Board could certainly convey their opinion on this topic to the Town Commission. There was a section in the code that addressed suspension of the payment for the parking spaces when the business was closed or vacant for a period greater than 90 days. That did not accomplish what Board Member Dillistin was talking about. This should be discussed by the Board and if in agreement, this could be a second motion conveyed to the Town Commission. The first motion should be on the site plan modification.

Board Member Dillistin made a motion to recommend approval to the Town Commission of the Level 2 Site Plan Modification. The motion was seconded by Board Member Omana. The motion carried 5-0.

Vice Chair Buerosse asked for board discussion regarding parking. She said that they would like to suggest that the Town Commission consider waiving the parking fees. Town Attorney Trevarthen explained the condition in the Code regarding PILOP. This was common in areas where there was not enough parking or was hard to add more parking. She explained the idea of the program in Lauderdale-By-The-Sea but clarified that there were other municipalities that had programs like this. Board Member Sylvester asked how much did PILOP cost. The Town Attorney explained that it was laddered. Acting Development Services Director Campbell explained the pricing as \$5,000 each for the first two spaces and then each additional parking space on the first floor was \$20,000. She answered the Vice Chair that Paul had to purchase two at \$5,000 each. The parking spaces stay with the building and not the business. If DelacaSeas moved, those two spaces remain with the building. The Town Attorney reminded the Board that the Town's cost to provide parking spaces was a significant number. Discussion ensued and Vice Chair Buerosse felt that maybe the parking fee in the middle of this pandemic should be waived and Board Member Dillistin was in favor. Board Member Sylvester felt that since DelacaSeas was an existing, established business, we should consider waiving it. Board Member Piersante felt that Paul should be helped out and Board Member Omana was also in agreement. The consensus was unanimous to waive this fee.

Board Member Dillistin made a motion that the Planning and Zoning Board recommended that the Town Commission find a Town source to cover the cost of PILOP parking spaces for

businesses west of A1A through December 31, 2021. The motion was seconded by Board Member Piersante. The motion carried 5-0.

b. Ordinance 2021-10

An Ordinance of the Town of Lauderdale-By-The-Sea, Florida, amending Chapter 30 "Unified Land Development Regulations", Section 30-11, "Definitions" to define "Tobacco Paraphernalia Stores"; amending subdivisions L and M, B-1-A and B-1 District regulations, to change the lists of permitted and conditional uses and create supplemental regulations; creating Section 30-281 to provide for amortization of existing tobacco paraphernalia stores in the B-1 zoning districts; providing for codification, severability, conflicts, and for an effective date.

Acting Development Services Director Campbell said that they received a request today from an affected party of this ordinance, one of the tobacco shops. As today was the start of Yom Kippur, they asked to defer this. So what the Board was going to do today was to cover all the other sections of this ordinance except for the sections pertaining to tobacco. The ordinance would then be brought back to the next Planning and Zoning Meeting. Town Attorney Trevarthen explained that Yom Kippur started at sundown and both the business owner and the representative celebrate this holiday. Acting Development Services Director Campbell explained to Board Member Dillistin that they would cover all the other sections of the ordinance tonight but not tobacco.

Acting Development Services Director Campbell stated that Staff prepared this ordinance to incorporate the Commission's request to eliminate Smoke Shops as permitted use. However, as stated previously, we would vote on the ordinance at the next P&Z Meeting. Tonight we were looking at the B-1-A and B-1 commercial zoning districts to ensure that the regulations reflect changed conditions in the Town and the current preferences of the Town Commission and community. The proposed changes were reviewed by the Interim Town Manager and the Town Attorney where applicable. In the Staff Memo, in Table 1, there was a summary of the proposed changes/amendments. Items 1 and 2 (dealing with tobacco) would not be discussed this evening. Items 3 through 7 were in regard to the B-1-A zoning district. She went over the permitted uses that would be eliminated in the B-1-A zoning district as Staff felt they were not conducive to that area and also explained what permitted uses were added. Board Member Dillistin asked about large box party supply stores elimination as it was in his "search terms" for his business and Town Attorney Trevarthen said that this was Staff's recommendations being presented for the Board's input. Acting Development Services Director Campbell explained that a written report to the Town Commission was an added requirement when similar uses were approved for either permitted or conditional uses. It also established criteria for the operation of a massage therapy business. Items 8 through 10 were in regard to the B-1 zoning district. She went over what was added and eliminated as permitted uses. Staff clarified music stores for permitted use and referred to supplemental regulations for massage therapists. Acting Development Services Director Campbell went over what was eliminated from conditional use. She said that supplemental regulations were added to pet stores as a conditional use and to massage therapy as a permitted use. There was a pet store in the B-1 zoning district that would be allowed to remain under its existing conditional use regulations unless it ceased to operate for more than sixty days or if the conditional use order was revoked.

Town Attorney Trevarthen explained that as a courtesy to the person who called in, we explained that we would not vote on this tonight and the ordinance would come back next time. She said that we were open to any questions/discussions tonight but not on what pertained to tobacco. Vice Chair Buerosse called for public comments.

Barbara Cole, resident, spoke about 2010 when this discussion happened. The Town Manager was supposed to come before there was an approval. So if this re-enforced it that would be great. Her confusion was if this was supposed to get rid of paraphernalia and gave them time to do so, it did not jive with the explanation of an existing doggie store that would be grandfathered in for as long as they want. She was looking for a legal opinion. She also did not understand why pet stores were allowed but not party stores. There were no other requests to speak from the public and the Vice Chair called for board discussion.

Town Attorney Trevarthen said that they received direction from the Commission expressing concern that some of the uses of the paraphernalia were broad and less predictable as to what was coming in. This ordinance was a response to that request but the Board could agree to it or not as they seem fit. Board Member Sylvester felt that this was too broad because there were some specialty markets (like specialty vinegar stores) that would be cool to have downtown. She felt that the definition of specialty shops should be tightened up. Town Attorney Trevarthen explained that if this ordinance was to pass as proposed, it was ultimately up to the Commission. Remember that in 2012, changes were made to add uses to this list and now in 2021, we were again looking at this list and making changes. Board Member Dillistin asked if a specialty store like Artisan Honey wanted to come in, would we not allow this specialty store in Town. Vice Chair Buerosse spoke about a list of prohibited uses in one zoning area and a list of allowable uses in another. Town Attorney Trevarthen directed to page two of the memo, whereby the code addressed this issue in Section 30-154 ((b) *Other prohibited uses*. Except as provided in any applicable zoning district regulations, any use not specifically identified as a permitted, conditional, accessory, or temporary use within a zoning district is prohibited in that zoning district.) So if the business was not listed or identified, then they would have to make a case to see if they were similar and the last alternative would be changing the ordinance. If not, that business would not be allowed in Town. Vice Chair Buerosse wanted to know why we would grandfather in a pet store and not a paraphernalia store. Town Attorney Trevarthen explained about the Commission's request and reminded that we told the affected party that we would not discuss anything to do with tobacco tonight.

Barbara Cole, resident, was granted more time to speak. She said that from what Christina said, almost anything was allowed in a residential area. She was wondering how long it would take before we were told that almost anything would be allowed in the business area. Town Attorney Trevarthen said that the Florida Constitution very specifically provided for home rule of local government. Over the past several years, it has been a steady crescendo of preemption after preemption. In the areas we have our home rule, we were making the best decisions to protect our community. Then there were things that we no longer have control over. Vice Chair Buerosse said that we mandate things for massage parlors in the business district but not in the residential district. Town Attorney Trevarthen explained how we could enforce performance standards when a business in a residential area became too intrusive. Board Member Sylvester asked about Item 3 in Table 1 (showing what businesses were eliminated as a permitted use in B-1-A) and wanted to know if some of them could be conditional. Acting Development Services Director Campbell said that a suggestion from the Board could be made on that. If Board Member Sylvester wanted, she could bring this up at the next meeting when the ordinance would be brought back. Town Attorney Trevarthen answered her other question that just one line now addresses music stores. Board Member Dillistin said that there would not be a thrift store in our Town and Town Attorney Trevarthen said yes but we could have consignment stores. Acting Development Services Director Campbell answered the Vice Chair that staff made the list of suggestions of stores/uses.

Town Attorney Trevarthen further answered that there was a planning consultant in 2012 who was asked to do a study and a lot of uses were added at that time. Town Attorney Trevarthen said that it was in the power of the Planning and Zoning Board to say not to change a particular use at all or if a use was proposed to be removed, you could recommend it become conditional. Board Member Sylvester suggested for discussion at the next meeting that market and party supply stores be taken from the eliminated list and added to a conditional list. Town Attorney Trevarthen said this would be discussed at the next P&Z Meeting.

6. OLD BUSINESS N/A

7. UPDATES/BOARD MEMBER COMMENT N/A

8. ADJOURNMENT

Board Member Dillistin made a motion to adjourn at approximately 7:03PM. The motion was seconded by Board Member Sylvester. The motion carried 5-0.

Vice Chair Christina Buerosse

ATTEST:

Date Accepted: _____

Acting Development Services Director Jhanelle Campbell



Town of Lauderdale-by-the-Sea
Development Services Department

To: Planning and Zoning Board
From: Jhanelle Campbell, Acting Development Services Director
Date: August 23, 2021
Meeting Date: October 6, 2021

Project: **ORDINANCE 2021-10: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 30 "UNIFIED LAND DEVELOPMENT REGULATIONS," SECTION 30-11, "DEFINITIONS" TO DEFINE "TOBACCO PARAPHERNALIA STORES;" AMENDING SUBDIVISIONS L AND M, B-1-A AND B-1 DISTRICT REGULATIONS, TO CHANGE THE LISTS OF PERMITTED AND CONDITIONAL USES AND CREATE SUPPLEMENTAL REGULATIONS; CREATING SECTION 30-281 TO PROVIDE FOR AMORTIZATION OF EXISTING TOBACCO PARAPHERNALIA STORES IN THE B-1 ZONING DISTRICTS; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND FOR AN EFFECTIVE DATE**

Background

The April 27, 2021 Interim Town Manager Report included an update to the Commission regarding the recent approval of a business tax receipt for a specialty shop selling tobacco paraphernalia, and the Staff's inquiry as to whether the Commission would like to consider changing the permitted uses in our business zoning districts to eliminate such types of uses (**Exhibit 1 – Town Manager Report; Exhibit 2 April 27 Town Commission meeting minutes**). The Town already had one cigar store and one tobacco paraphernalia store at that time. No additional tobacco related stores have opened in the intervening months.

This inquiry created significant discussion from the Commission and the public that evening as to whether such uses should continue to be permitted in the Town.¹ The conversations led staff to review the 2009 Town meetings (**Exhibit 3- Planning and Zoning Board and Town Commission Meeting Minutes**) that reviewed the existing B uses and recommended changes adopted through Ordinance 2010-15 (**Exhibit 4**); this history had been a topic of discussion.

¹ There was some confusion in these discussions about whether medical marijuana shops were part of this issue. They are not. Such shops were illegal statewide in 2010. After they were authorized by state law, the Town used the authority available under the statute to adopt a zoning ordinance accommodating them in a small area of the B1A zone. After state law was further revised so that the Town could only prohibit or regulate them as pharmacies, the Town chose to prohibit them. See Section 30-154: "Prohibited uses. (a) *Medical marijuana retail center*. In accordance with F.S. § 381.986 (2017) it is hereby expressly provided that medical marijuana retail centers are prohibited within the Town in each and every zoning district." State law continues to specifically allow prohibition of this use. No change to the zoning treatment of medical marijuana shops is proposed in this ordinance.

In 2009, the Ordinance was revised to remove cigar stores from the list of permitted uses in response to the Commission direction. When a use is removed, there is no longer reference to it in the Code, so research would have been required to determine that a former use was removed. As such, since there was no clear indication in the Code that cigar stores were not to be included as specialty shops, these types of businesses were approved under the specialty shop category.

It is important to note that specialty shops and sundries store were permitted in the code as far back as 1994; however, definitions of these uses were not included in the code. The 2010 ordinance did not address whether smoke shops should not be approved as a specialty store. If this language was clearly written in the code, Town staff would have had the direction it needed to prohibit these types of uses.

The Town Code was later clarified to specifically state that only those uses listed are allowed. The following language was added in 2017, when the prohibition of medical marijuana retail uses was added.:

Sec. 30-154. - Prohibited uses.

(b) *Other prohibited uses.* Except as provided in any applicable zoning district regulations, any use not specifically identified as a permitted, conditional, accessory, or temporary use within a zoning district is prohibited in that zoning district.

There is a process in the B-1 and B-1-A zoning districts, created in 2009, for the staff to propose that a use is similar to a listed use. The process requires consultation with the Town Manager and Town Commission if a use is proposed to be accepted. The same process applies whether the proposed use is a permitted or a conditional use. See Section 30-261(1)xxx. and (2)p. for B-1-A and Section 30-271(1)xxx and (2)s. The wording is similar for all references, as follows:

Uses not listed. Any use not covered by the above list may be authorized in the B-1-A district by the Town Manager or designee only if the proposed use is similar to a listed use; otherwise, an amendment to this chapter is required. The Town Manager or designee shall consult with the Town Commission on any proposal to find that a use is similar, prior to authorizing such use in the B-1-A district.

As a result of staff's research, the Commission directed staff to review the Town's list of permitted uses in the B-1 and B-1-A zoning districts and recommend amendments to clarify the original intent of the 2009 ordinance.

Review

Staff has prepared Ordinance 2021-10 (**Exhibit 5**) to incorporate the Commission's request to specifically eliminate smoke shops as a permitted use. We also took the time to comprehensively address other issues in the B-1-A and B-1 Commercial zoning district that had been discussed over the last several years, to make sure that the regulations reflect changed conditions in the Town and the current preferences of the Town Commission and community. The proposed changes were reviewed with the Town Attorney and Town Manager where applicable. A summary of the proposed changes follows.

Table 1- Proposed Amendments

	Issue	Ordinance Requirement	Ordinance Line Number
1.	Defines Tobacco paraphernalia.	Establishes a definition for tobacco paraphernalia and clearly establishes the types of devices considered to be paraphernalia.	71-86
2.	Defines Tobacco paraphernalia store.	Establishes a clear definition for tobacco paraphernalia store.	88-91
B-1-A			
3.	Eliminates the following uses from permitted uses in B-1-A: • beauty schools, • dental laboratory, • market, • party supply store, • specialty shop, • sundries store, • trade/business school.	Removes uses as permitted in the B-1-A zoning district.	115, 132, 155, 166, 182, 186, 191
4.	Makes the following changes to permitted uses in B-1-A: • Adds medica/dental office • Clarifies music store • Refers to supplemental regulations for massage therapist.	• Adds medical/dental office as a permitted use • Clarifies what is allowed as a music store • Cross-references to the criteria for the operation of massage therapy establishments	159 163, 188 156
5.	Includes a requirement for written report to Commission when similar uses are approved as permitted or conditional uses	The Town Manager will provide information in the written Town Manager report each time similar uses are approved.	205-207 241-243
6.	Eliminates the following conditional uses: • car wash/outdoor hand wash. • pet store	Removes car wash/outdoor hand wash and pet store as listed conditional uses.	213, 226
7.	Adds supplemental regulations for massage therapists	Establishes criteria for operation of a massage therapy business	248-347

	Issue	Ordinance Requirement	Ordinance Line Number
B1			
8.	Adds the following permitted uses: - cigar store - medical/dental office	Restores cigar store as a permitted use. Note: If a store triggers the definition of tobacco paraphernalia store, it is not allowed. Adds medical/dental office	410, 447
	Eliminates the following uses from permitted uses: - beauty schools, - market, - party supply store, - specialty shop, - sundries store, - trade/business school.	Eliminated these permitted uses from B-1	366, 406, 417, 433, 437, 442
	Makes the following changes to permitted uses: - Clarifies music store - Refers to supplemental regulations for massage therapist.	Changes these permitted use references	414, 439 407
9.	Eliminates from conditional uses: call center, car wash/outdoor hand wash.	Removes call center and car wash/outdoor hand wash as conditional uses.	463, 464
10.	Adds supplemental regulations to pet store as a conditional use. Adds supplemental regulations to massage therapist as a permitted use.	Adds supplemental regulations to pet store as a conditional use.	478, 601-651 501-600

The below provides additional explanation to the proposed changes outlined in **Table 1**.

Defines Tobacco Paraphernalia

The Town's Code does not have a definition for tobacco paraphernalia. The proposed Ordinance creates a definition of tobacco paraphernalia stores that respects various complex state preemptions of regulation in this area. The Ordinance restores the permitted use of cigar store; the one in Town has been here since 2004, sells very few paraphernalia items, and does not meet the definition of tobacco paraphernalia store.

Tobacco paraphernalia is defined as the use of any tobacco product, drug or narcotic and includes but is not limited to;

- a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic smoking pipes, with or without screens, permanent screens, or punctured metal bowls.
- b. Water pipes.
- c. Carburetion tubes and devices.
- d. Chamber pipes.
- e. Carburetor pipes.
- f. Air-driven pipes.
- g. Chillums.
- h. Bongs.
- i. Ice pipes or chillers

Defines Tobacco Paraphernalia Store

The proposed Ordinance also establishes a definition for tobacco paraphernalia store: Any retail store that sells, offers for rent or sale, or exhibits or displays, tobacco paraphernalia that totals more than five percent of its inventory, measured by either the number of items or the square footage of the store where inventory is displayed or accessible to customers.

Eliminates the following uses from permitted uses in B-1 and B-1-A: beauty schools, Market, party supply store, specialty shop, sundries store, trade/business school. Eliminate dental laboratory from B-1-A.

Ordinance 2021-10 eliminates several uses from the B-1A zoning district. Beauty schools, dental laboratories, and trade/business schools are proposed to be removed because the properties in B-1-A are not conducive to these uses. Dental laboratories remain in B-1 because the district already has one, but the other uses are also removed from B-1. Markets, party supply stores, specialty shops, and sundries stores are proposed to be removed from both districts because these uses are less specific in nature, in response to the direction from the Commission. The Ordinance also clarifies the reference to music stores to both districts.

Adds the following in permitted uses in both districts: cross-reference the supplemental regulations for massage therapist; add medical/dental office;

Cross-references are added for the supplemental regulations of massage therapists.

Medical supplies sales are currently allowed in the B-1 and B-1-A districts, but medical/dental office is not listed as a permitted use in either zoning district. Many such offices have been allowed as similar uses over the years. The proposed Ordinance add medical and dental office as permitted uses in the B-1 and B-1-A zoning districts.

Includes a requirement for Town Manager report to Commission when similar uses are approved as permitted or conditional uses following Town Code provisions.

The proposed Ordinance supplements the existing process by adding a requirement for the Town Manager to report each instance in which a use is approved as a similar use to the Town Commission in writing. The information will be provided in the Town Manager's report at a subsequent Town Commission meeting.

Eliminates car wash/outdoor hand wash as a conditional use.

The suggested changes remove car washes as a conditional use.

Adds supplemental regulations for massage therapists in both districts.

Supplemental regulations for massage therapists are also being proposed with Ordinance 2021-10. The suggested regulations require establishments providing massage services to obtain a massage therapist certificate from the Town. The following information will be required to be furnished.

- a. Proof of valid Florida Board of Massage Therapy license issued to the establishment in accordance with F.S. §480.043 et seq.; and
- b. Proof of valid Florida Board of Massage Therapy or other state health care practitioner license for all personnel providing massage services at the establishment, in accordance with F.S. §480.041 et seq. or F.S. Ch. 456; or proof of Florida Board of Massage apprenticeship approval as defined in F.S. §480.033, if applicable; and
- c. Proof of valid Florida driver's license or other government-issued identification for every person and massage therapist working at the establishment.

Once issued, a massage therapist certificate will remain valid for a period of one year and must be recertified during the Business Tax Receipt renewal season. When there is a change of the use, ownership, business name, or establishment name, or establishment location from that specified on the approved certificate, a new certificate will be required. At the time of issuance of business tax receipt during the term of a massage therapist certificate, each establishment holding a certificate will be required to supply the Town with updated state license and driver's license information.

It also outlines the grounds for revocation of a massage therapist certificate. The following terms of revocation are being proposed;

- a. Noncompliance with any provision of massage therapist requirements
- b. Noncompliance with Chapter 480 of the Florida Statutes
- c. The Town's determination that issuance of a certificate was granted based upon false information, misrepresentation of fact, or mistake of fact by the representative of the establishment holding the certificate, or his or her agent; or
- d. Failure to remain "in good standing" as defined by the Town.

Adds the following permitted uses to B-1 only: cigar store

The proposed Ordinance restores cigar store as a permitted use. This use specifically does not permit the sale of tobacco paraphernalia as defined above

Eliminates from B-1 conditional uses: call center

The suggested changes remove call center as a conditional use.

Removes pet stores as a conditional use from B-1-A and adds supplemental regulations to pet store in B-1.

Currently, the Town Code allows pet stores as a conditional use in both districts, and one store was approved in B-1 as a conditional use in 2010.

The proposed Ordinance would remove pet stores as a conditional use from B-1-A. The removal of pet stores as a conditional use would prevent the sale of live animals for any future incoming businesses. New pet stores would remain as a conditional use but be subject to supplemental regulations and stores which sell pet supplies, accessories and pet food would still be permitted.

This use was the subject of debate some years ago when many communities were regulating pet stores more stringently and litigation was happening all over the country on the issue. The Town Attorney tracked, analyzed and advised the Town Commission on the developing caselaw over time, and the Town did not decide to pursue regulation at that time, waiting for the litigation to be resolved and law to be clarified. In the intervening years, cases have been decided and the law is clearer now that supplemental regulations like those proposed in this Ordinance are likely to be upheld.

The existing pet store would continue to operate under its conditional use approval and would be grandfathered from the new supplemental regulations unless it ceases operation for more than 60 days or the conditional use is revoked by the Town or otherwise invalidated. It is also important to note that the store would still continue to be subject to previously established conditional use development order and its requirements.

Amortization of Tobacco Paraphernalia Stores in B-1 Zoning District

With Town Commission direction, the proposed Ordinance also establishes the amortization of tobacco paraphernalia stores in the B-1 zoning district (there are none in the B-1-A district). This means that nonconforming tobacco paraphernalia stores will be required to cease to operate within 1 year of adoption of the proposed Ordinance. Non-conforming tobacco paraphernalia stores may continue to operate during the amortization period but must be maintained in good condition. However, such stores may no longer display its inventory of tobacco paraphernalia within 5 feet of any window or glazed area of the front or side façades. Stocking and reselling of tobacco paraphernalia will continue to be allowed for the amortization period.

As written, the amortization period may be extended by the Town Manager, with the advice of the Town Attorney, if the non-conforming business can demonstrate economic hardship to the owner of a tobacco paraphernalia store, as further specified in the Ordinance. In addition, the Town Manager may choose to bring such an extension request to the Town Commission for approval.

Recommendation: Staff recommends approval of Ordinance 2021-10

Attachments:

- Ex.1 – April 27, 2021 Town Manager Report
- Ex.2 – April 27, 2021 Town Commission Meeting Minutes
- Ex.3 – Town Commission Meeting Minutes
- Ex. 4- Ordinance 2010-15
- Ex. 5- Ordinance 2021-10



Town Commission Agenda Item Report

Meeting Date: April 27, 2021

Submitted By: Linda Connors

Submitting Department: Administration

Item Type: Report

Agenda Section: TOWN MANAGER REPORT

Subject Title: Town Manager Report for April 27, 2021 (Linda Connors, Interim Town Manager)

Explanation: Following is the Interim Town Manager's report for April 27, 2021.

1. Shuttle Expansion

The Pelican Hopper is administered through an ILA with Broward County Transit (BCT). BCT is currently seeking new opportunities to improve this program and they plan on funding these improvements with their allocation of the Penny Surtax Funding. To take advantage of this opportunity, we would like to add another shuttle to our existing route to make the service more efficient and convenient for our ridership. We also would like to collaborate with Fort Lauderdale to propose connecting the LBTS and FTL routes so that our riders will have a better connection to Fort Lauderdale and vice versa. Submissions for funding requests are due to BCT at the beginning of May. There would be no additional financial impact to the Town.

Required Action: Provide Commission's direction regarding the submittal for funding requests for the additional Pelican Hopper shuttle.

2. RM25 Zoning District – 60' provision

At our last meeting, two people spoke during public comment asking for you to consider changing the Town's regulation prohibiting short term tenancy in the RM25 Zoning District on lots less than 60' in width and west of Bougainvillea Drive.

Town staff has researched this provision previously and we are not sure what was the original intent of the legislation. What we have found over the years, is that the legislation is confusing, and it is not encouraging redevelopment of these older multi-family properties. Because it discourages rental properties in the zoning district that allows rentals, it instead encourages those persons to purchase in our single-family residential areas.

Required Action: Provide staff direction whether to move forward with an ordinance to amend the code. This would include a review by the Planning and Zoning Board since it is a zoning issue.

3. Smoke Shop Distance Requirement

A third smoke shop recently opened in the Town. We do not have a large commercial district, and some residents have expressed concerns that we are getting too many of these types of shops in Town. The Town Attorney informed us that we can include a distance requirement for these businesses like what we currently have for package and convenience stores.

Required Action: Provide staff direction regarding drafting an ordinance to create a distance requirement for smoke shops.

4. Election Costs

Earlier this month, the Supervisor of Election, Joe Scott, gave the Town his estimate for the price of our 2022 Municipal Election. The cost has increased from \$2,300 for the 2020 Municipal Election to an estimated \$12,800 for the 2022 Municipal Election. All Broward municipalities have received a similar increase to their election cost for 2022. The Florida Association of Clerks is meeting with Mr. Scott on April 21st to discuss the increase. We will keep you informed.

5. Vendors

In reviewing our website, I noticed that we did not have a comprehensive list of all the Town's vendors. It is important that we are transparent, but also to make sure that you all are aware of our vendors to eliminate any conflicts that may trigger an ethics violation. Tedra has since posted the current list which is available here:

<https://www.lauderdalebythesea-fl.gov/DocumentCenter/View/1685/Town-Vendor-List-April-2021>

6. New Staff



Frederick Murray started April 16th and will be working with the Buildings and Public Lands Division of the Public Works department and will be cross trained with the Streets and

**TOWN OF LAUDERDALE-BY-THE-SEA
TOWN COMMISSION
MEETING MINUTES
Jarvis Hall
4505 Ocean Drive
Tuesday, April 27, 2021
6:30 PM**

1. CALL TO ORDER

Mayor Chris Vincent called the meeting to order at 6:30 p.m. Also present were Vice Mayor Alfred "Buz" Oldaker, Commissioner Edmund Malkoon, Commissioner Elliot Sokolow, Commissioner Randy Strauss, Interim Town Manager Linda Connors, Assistant to the Town Manager Neysa Herrera, Town Attorney Susan Trevarthen, Director of Finance and Budget Lucila Lang, Director of Public Works Ken Rubach, Acting Development Services Director Jhanelle Campbell, Special Projects Coordinator Debbie Hime, and Public Information Officer/IT Administrator Steve d'Oliveira, Tedra Allen, Town Clerk

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION

All present observed a moment of silence in memory of former resident Adam Geesey.

4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS

None.

5. PRESENTATIONS

a. Mental Health Awareness Month (Steve d'Oliveira, Public Information Officer)

Mayor Vincent read a Proclamation recognizing May 2021 as Mental Health Awareness Month.

6. PUBLIC COMMENTS

At this time Mayor Vincent opened public comment.

Town Clerk Tedra Allen read the following public comments:

- Barbara Cole, resident, did not agree with the proposed plans for reopening public meetings at Town Hall, which she characterized as antiquated; she also requested that multiple alerts be made to the public in the weeks ahead of reopening, and that chairs and benches be returned to the Plazas
- Scot Sasser, resident, asked that Ordinance 2010-15 be researched by Staff, as it discussed several types of businesses, including smoke shops, that should no longer be allowed in the Town; he noted that there are currently three such shops operating within Lauderdale-By-The-Sea

With no other individuals wishing to speak at this time, Mayor Vincent closed public comment.

7. PUBLIC SAFETY DISCUSSION

a. AMR March 2021 Report (Chief Brooke Liddle)

Vice Mayor Oldaker made a motion, seconded by Commissioner Malkoon, to approve. Motion carried 5-0.

8. TOWN MANAGER REPORT

a. March Finance Report (Lucila Lang, Director of Finance and Budget)

Director of Finance and Budget Lucila Lang reported that ad valorem tax revenues are within expectations at 98.2%, which is consistent with the month of March during the last four years. She also noted that while parking revenues in March 2020, when the COVID-19 pandemic began, were approximately \$167,000, they were \$270,000 in March 2021, an increase of 66.57%.

Mayor Vincent asked how much of the revenues from the Town's Parking in Lieu of Payment (PILOP) program can be attributed to businesses that required additional parking, as well as how many businesses have applied for extra parking. Finance Director Lang replied that she would provide a breakdown of this revenue for the Commission in the future.

Vice Mayor Oldaker commented that an ongoing trend of individuals and families from the northeast moving to Florida would improve property values and by extending the taxable base.

b. Town Manager Report (Linda Connors, Interim Town Manager)

Interim Town Manager Linda Connors stated that the Town is considering the addition of a second Pelican Hopper shuttle using Broward County surtax funds. This would allow for the shortening of wait times on the current route. No additional funds from the Town would be needed, as the new shuttle would be covered using surtax funds.

Commissioner Malkoon observed that Pompano Beach provides on-demand shuttle service using Uber, and asked if any County funds could be made available for this option instead of an extra bus. He pointed out that the Pelican Hopper route is less convenient for residents on the north side of the Town.

Commissioner Sokolow asked if the addition of a second bus would cut wait time in half. It was clarified that routes wait time would change from approximately 55 minutes to 30 minutes. Buses would follow the same route in clockwise and counterclockwise directions. Commissioner Sokolow stated that he was in favor of this change, noting that on-demand service could significantly drive up costs.

Mayor Vincent asked if a specific level of ridership is no longer a concern for the Pelican Hopper. Special Projects Coordinator Debbie Hime replied that the Town's current ridership per hour is 10.2 passengers against a required threshold of 7.2. The Town will file an application with Broward County Transit (BCT) to request the second shuttle.

Mayor Vincent also asked for clarification of the Town's costs for the current shuttle. Special Projects Coordinator Hime explained that the Pelican Hopper is currently funded through BCT's portion of the one-cent surtax: if the application is approved, there is no current or future financial impact to the Town.

The Commissioners agreed by consensus to move forward with this request.

Interim Town Manager Connors continued that one current and one potential property owner have reached out to Town Staff to discuss properties in the RM-25 zoning district located west of Bougainvillea Drive and measuring less than 60 ft. in width. These lots are prohibited from use as short-term rentals. Both individuals have requested that the Commission consider changing the Ordinance governing these properties. She asked if the Commission wished to bring this item forward for discussion by the Planning and Zoning Board as well as by the Commission itself. The properties are located within a

multi-family and hotel zoning district. The prohibition was passed in 2000 and affects only a small area.

Staff has researched the reasons behind this Ordinance but has not discovered a clear explanation. They have also noted that individuals interested in purchasing short-term rental properties in Lauderdale-By-The-Sea feel “pushed out” of this particular area and are more likely to purchase properties in residential neighborhoods.

Commissioner Malkoon requested clarification of the number of properties affected by this prohibition. It was estimated that there were approximately 150 such properties. Interim Town Manager Connors replied that the title of the subject Ordinance includes language that encourages the redevelopment of these properties, although the result of the Ordinance is the opposite. In addition, properties over a certain size are permitted to offer short-term rentals, while adjacent smaller properties are limited to long-term rentals only.

Commissioner Sokolow commented that the Ordinance does not make sense to him and he would support revisiting it. Mayor Vincent agreed, describing the Ordinance as placing an inordinate burden on a number of properties. He was in favor of removing the restriction on short-term rentals.

Interim Town Manager Connors continued that the Broward County Supervisor of Elections has given all Broward municipalities information on the estimated cost of the 2022 election for both Town precincts to be a total of \$12,800. The election cost for the 2020 election was \$2300. This significant increase is expected to occur across the board in all municipalities and to be much larger in some. The Florida Association of Clerks has met with the Supervisor of Elections regarding this increase.

Mayor Vincent stated that the increase in cost should be spread out over time, and advised that he would follow up on this issue with Broward County Commissioner Lamar Fisher. He was in favor of an investigation into this issue.

Vice Mayor Oldaker noted that the Supervisor of Elections calculates his own budget each year, and expressed surprise that these costs are not covered as part of that budget but must be subsidized by municipalities. He also felt these figures should be further clarified for Broward County taxpayers.

Commissioner Sokolow characterized the cost of elections as a means to offset the Supervisor's budget by having the cities assume some of the costs. He asked if changing

the Town's election dates to match federal and state dates would reduce the cost. Town Attorney Susan Trevarthen pointed out, however, that some of the largest increases were to cities that match these dates.

Mayor Vincent requested additional information on the issue of smoke shops, which was raised under Public Comment. Interim Town Manager Connors replied that there are three such shops in the Town; Code is not clear regarding a prohibition on these businesses. Staff recommends either implementing a distance requirement between businesses or a prohibition on these shops that would be enforceable under Code.

Mayor Vincent recalled that when Ordinance 2010-15 was passed, there were discussions of several "specialty shops" the Commission did not want to proliferate within the Town. While these are not included in the Town's permitted uses, some of these businesses sell products outside their individual classifications. He recommended revisiting the Ordinance to include a number of uses the Town does not want to permit in the future rather than creating a distance requirement between them.

Town Attorney Trevarthen advised that the Town may create definitions or write prohibitions into the B zoning district that would make it clear these are not permitted uses, or they may establish a conditional use process in which certain businesses must come before the Commission and meet specific criteria for approval. Creating a distance requirement is another policy option.

Town Attorney Trevarthen continued that some uses are complex, with Constitutional protections. These would need to be examined one by one. She concluded that in 2010, B uses were opened because there were relatively few that were permitted Downtown. It may be a good time to revisit these and ensure that they reflect the Commission's current wishes for the Town.

Commissioner Strauss requested clarification of the process for businesses not listed as permitted uses, asking if this should include Commission review on a case-by-case basis in the future. Town Attorney Trevarthen replied that this was addressed under Ordinance 2010-15: if a use does not fall within any of the listed uses, the Town Manager reviews the use and consults with the Town Commission. This process may be further modified if the Commission wishes.

Town Attorney Trevarthen further clarified that "specialty shop" is not a specifically defined term, which leaves it open to interpretation. In the case of the subject business, Staff concurred that it would reasonably fall into the category of a specialty shop unless

Code is amended for greater clarity. If Code is amended, the Commission would be asked to determine if a use brought before them qualifies as a permitted use. Permission of one such business would open the door to other similar establishments that might wish to move into the Town.

Commissioner Strauss asked if an Ordinance could be crafted in a way to allow the Commission to review each business on an ad hoc basis. While this would create more work for the Commission, he felt the amount of work would not be inordinate and they would be asked to make decisions on whether uses are or are not acceptable.

Commissioner Sokolow asked if the Town could prohibit certain uses, such as smoke shops, going forward, although there are currently three of these businesses that would be grandfathered in under Code. Town Attorney Trevarthen stated that she would look into this possibility and bring a recommendation back to the Commission.

Commissioner Sokolow also asked if the sale of one of these businesses to a new owner would be permitted. Town Attorney Trevarthen replied that change of ownership typically does not affect use status; however, she would review options for this as well.

It was clarified that Staff would work with Town Attorney Trevarthen to investigate the possibility of a prohibition on smoke shops and arrive at the best alternative. They will also look into other options, such as requiring conditional use or Commission review for specialty shops.

Interim Town Manager Connors continued the Town Manager Report, noting that the Town's vendor list has been updated on its website. It will be regularly updated into the future. Inactive vendors are removed from the list over time. Town Attorney Trevarthen explained that the Broward County Code of Ethics includes special rules related to vendors or contractors which restrict contact between these entities and elected officials.

Interim Town Manager Connors announced that the Town has a new employee, Frederick Murray who started on April 16th and will be working with the Buildings and Public Lands Division of Public Works.

Interim Town Manager Connors continued that new shutters and windows have been installed in Town facilities, generators are on order, and fuel tank installation is underway. Work on the Town Hall roof is on tonight's Agenda. Extra staffing from the Broward Sheriff's Office (BSO) in the Downtown area is expected to conclude after Mother's Day on May 9, 2021.

c. 1st Qtr Welcome Center Report (Amy Smith, Welcome Center)

Eva Marissa, representing the Chamber of Commerce, reported that car rental inquiries are increasing. She has distributed a significant number of schedules for the Pelican Hopper in recent weeks, which may be related to the car rental issue. Hotel accommodations and website activity are down. A blood drive is scheduled for Sunday, May 2, 2021 at the Farmer's Market.

Mayor Vincent asked if there are any concerns with the Pelican Hopper due to COVID-19-related guidelines and restrictions for public transit. Ms. Marissa replied that riders have reported the vehicle is clean and riders adhere to mask requirements.

9. TOWN ATTORNEY REPORT

None.

10. APPROVAL OF MINUTES

- a. April 6, 2021 Commission Workshop Minutes (Tedra Allen, Town Clerk)**
- b. April 13, 2021 Town Commission Meeting Minutes (Tedra Allen, Town Clerk)**

Vice Mayor Oldaker made a motion, seconded by Commissioner Sokolow, to approve. Motion carried 5-0.

11. CONSENT AGENDA

None.

12. OLD BUSINESS

- a. Codrington Drive Complete Street Design (Ken Rubach, Director of Public Works)**

Director of Public Works Ken Rubach advised that the proposed Codrington Drive Complete Streets project would combine different elements of what can be done for a street in a single project. This project was originally included in the Town's Capital

Improvement Plan (CIP) for 2021 and is expected to include significant resident involvement to identify more improvements once the 25% design phase has been reached. Staff looks forward to working with Codrington Drive residents on this project.

Vice Mayor Oldaker commented that there has been discussion of water intruding onto Codrington Drive from other areas, and asked how this would be addressed when water comes from a different jurisdiction. Public Works Director Rubach replied that he and Town Engineer Jay Flynn have discussed this issue with residents, some of whom are looking into the possibility of mitigating the impacts of water intrusion onto their own properties. Different solutions are currently under consideration.

Commissioner Malkoon inquired if the City of Fort Lauderdale is willing to work with the Town with the flooding issue on Flamingo Ave. Staff to reach out to Fort Lauderdale.

Mayor Vincent suggested that when Jarvis Hall is reopened, the Town may wish to consider letting residents address the Commission regarding drainage issues and concerns. He was also in favor of continuing communications with Fort Lauderdale to determine where problems exist, as this will identify which properties are affected. This public input and data will help create consensus on how much mitigation is necessary to prevent water infiltration from Fort Lauderdale onto Codrington Drive. Public Works Director Rubach confirmed that all of this information will be collected prior to the design phase.

It was determined that this Item would be deferred pending additional input from residents.

b. Town Hall Roof (Ken Rubach, Director of Public Works)

Public Works Director Rubach advised that the roof of the Town Hall administration building is the most in need of work. The Item proposes recoating of a single-ply membrane over the existing roof, which would seal the roof and address existing imperfections. This work can be done through a cooperative purchasing agreement. He noted that the original estimate for this work was significantly higher, as he had wished to budget for more comprehensive work.

Vice Mayor Oldaker requested additional clarification of what would be done to the Town Hall roof. Public Works Director Rubach replied that a moisture survey must be conducted to determine if there is damage or existing material to be replaced. Any underlying issues

will be addressed prior to recoating. If the roof is more than 25% wet, the entire roof would require replacement.

Vice Mayor Oldaker made a motion, seconded by Commissioner Sokolow, to approve. Motion carried 5-0.

c. Town Hall and Commission Meeting Update (Linda Connors, Interim Town Manager)

Interim Town Manager Connors advised that Staff has prepared to reopen Town Hall on May 3, 2021, with the first Town Commission meeting in person scheduled for May 11. Chairs for the Commissioners will be placed 6 ft. apart, with tables spaced appropriately as well. Attendees will be asked to wear masks and temperatures will be taken. Jarvis Hall can safely accommodate 14 to 16 people in this manner, with chairs to be provided on the portico. A TV and exterior speakers will be placed on the portico as well.

Interim Town Manager Connors asked if there are any Commissioners who do not feel it would be safe to return to Town Hall, explaining that if so, the location of the Commission can be relocated from the ground to the dais. She also asked if they wished to discuss alternate configurations.

Commissioner Malkoon asked if members of the public would be asked to sign up in advance to speak at an upcoming workshop. Interim Town Manager Connors confirmed this, adding that Staff will advertise this meeting on the Town's channel to encourage participants to sign up to speak. A sign will also be placed outside Town Hall. Individuals who sign up to speak will be guaranteed this opportunity. No members of the public will be turned away: if there are not enough seats, they will be directed to a location in the Town Hall complex where extra seats are available.

Commissioner Malkoon requested clarification of U.S. Centers for Disease Control (CDC) guidance on spacing between seated individuals. Town Attorney Trevarthen replied that the recommended distance is still 6 ft. for governmental entities. It was also confirmed that alerts will be sent to Town residents.

Commissioner Sokolow observed that sanitizing and cleaning upgrades are in place, and the Town has considered adding specialized filters to the Town Hall air conditioning system. Public Works Director Rubach replied that the current ionization system is expected to purify 99.9% of air coming through the system.

Mayor Vincent stated that he would prefer the Commission be seated on the dais with partitions between them, although he acknowledged that not all participants may be comfortable with that configuration or with in-person meetings.

13. NEW BUSINESS

a. Pavement Condition Study (Ken Rubach, Director of Public Works)

Public Works Director Rubach explained that this study will tell the Town the condition of its roadways. The last study was conducted several years ago and took place only in specific areas. The reason for this study is to provide guidelines on which roads need work at present and what kind of work should be done at what time. It will also help in planning stormwater projects and the planning of CIP projects over the next five years.

Vice Mayor Oldaker asked how the extensive repaving of some parts of the Town play into the condition study. Public Works Director Rubach advised that the study will rate the work that has been done to show how roadways have aged over the past five years. It will also identify any proactive maintenance that may be necessary.

Vice Mayor Oldaker noted that most of the Town's roads are laid out in a grid configuration, which means trucks may have difficulty with right-angle corners and stray into swales. Public Works Director Rubach replied that Staff will look at specific problem areas with the intent of mitigating them, including corners where there is consistent damage to grass or there may be other underlying issues.

Commissioner Sokolow made a motion, seconded by Vice Mayor Oldaker, to approve. Motion carried 5-0.

b. Waste Pro Contract Renewal (Linda Connors, Interim Town Manager / Neysa Herrera, Assistant to the Town Manager)

Interim Town Manager Connors noted that the Waste Pro contract will be up for its third and final renewal option in the near future. Assistant to the Town Manager Neysa Herrera and Waste and Recycling Coordinator Vicki Eckels are working with the contractor to resolve any specific complaints, and the Interim Town Manager has scheduled a meeting with Waste Pro's Regional Vice President to address the bigger picture, including communication and other issues.

Significant progress has been made since these discussions began in January 2021, including earlier collection times in the Downtown area. This has resulted in a decrease in complaints. Waste Pro has committed to replacing its metal dumpsters with plastic, which are easier to maneuver for business owners. Waste Pro has also been encouraged to subcontract its recycling dumpsters in multi-family developments, as there had been difficulties coordinating this program. While major issues remain with businesses and multi-family developments, progress is ongoing in these areas. The contractor is asked to inform these clients when they know collections will be late.

Waste Pro's contract ends in September 2021. The Town is required to advise them whether or not they wish to proceed with negotiations by June. Interim Town Manager Connors and Waste Pro representatives will bring forward information for the Commission's consideration at the May 25, 2021 meeting.

Vice Mayor Oldaker commented that there is significant activity at the County level regarding solid waste and the direction waste and recycling concepts for the South Florida region. He felt a short-term extension of the Waste Pro contract might be the best option.

Commissioner Malkoon observed that he has heard of several pickup issues in the Town's condominium buildings, including three missed pickups in a row, and expressed concern with the health and fire safety issues posed by this. He also spoke in favor of ensuring that provision of plastic containers is included in any coming contract, as well as adherence to performance metrics.

Commissioner Sokolow also noted his concern for pickup issues in multi-family residences, recalling that pickup has not been on time every Monday for at least five weeks. This is an issue because the condominium is not notified of when pickup will not occur, which means dumpsters are out all day. He emphasized the need to take care of these issues quickly if there is a desire to renew the existing contract.

Russell Mackie, Regional Vice President for Waste Pro, confirmed that the past 12 months have been difficult in the solid waste industry due to COVID-19, including labor and equipment challenges. He acknowledged that the level of service provided has not been up to the company's expectations, and that proactive communication should be a major aspect of improvement. He emphasized Waste Pro's commitment to providing the Town the service it expects.

c. Historic Preservation – County Changes to its Ordinance (Linda Connors, Interim Town Manager)

Interim Town Manager Connors recalled that in 2014, Broward County changed its Historic Preservation Ordinance to require communities without such Ordinances to file under the Broward County Historic Preservation umbrella. At that time, the Commission adopted a Historic Preservation Ordinance so the Town could retain autonomy.

Since that time, Broward County has changed its Ordinance to require autonomous municipalities to become certified local governments through the Florida Bureau of Historic Preservation's program, which has a number of requirements, including:

- Municipalities must have a true historic preservation program with specific requirements for membership, including a minimum number of board meetings per year and annual state certification
- Training of staff and surveying of the community's historic properties, which are properties over 50 years in age without respect to historic significance
- Matching funds must be provided to any grant funds received from the state

These requirements would fall to the Development Services Department, which would need to hire additional staff or consultants for assistance with the program.

Interim Town Manager Connors concluded that the Town will need to determine by November 2021 if they wish to become a certified local government. She requested direction from the Commission on whether to continue as an autonomous local government with its own historic preservation program, or to file under the County and State umbrella.

Commissioner Malkoon commented that while he was in favor of the Town taking ownership of its own historic resources if it is able, the certification process for a local government can be lengthy and expensive. He asked if the Town could complete this effort if the Commission chooses to move forward with it. Interim Town Manager Connors replied that the first step in the process would be modifying the Town's own Historic Preservation Ordinance, which the Town may begin right away.

Commissioner Malkoon estimated that certification may take at least one year, and noted that the Town has not moved forward with any historic preservation initiatives. He did not feel there was sufficient time to undertake or complete these efforts by the deadline of November 2021.

Mayor Vincent stated that while the Town maintains a sense of historical value, and the Commission is in favor of home rule, the County had not identified any structures in

Lauderdale-By-The-Sea as historic prior to the Town's Ordinance. Interim Town Manager Connors added that the Town had been able to secure a commitment from the County that whenever a property is eligible for historic designation within a municipality, the County would give that municipality's governing body a voice in that designation process.

The Commissioners determined by consensus to have Staff amend Code to eliminate existing references to historic preservation in order to prevent a duplicative program.

d. Renewal of Town Contracts (Tedra Allen, Town Clerk)

Interim Town Manager Connors advised that each year, the Town's purchasing manual requires all contracts up for renewal be brought before the Commission for consideration. Staff recommends the extension of several of these contracts that have renewal options available, including State Engineering, Limousines of South Florida, Andy Massari Multi-Media Design Services, and CAP building inspection.

Four other contracts with renewal options will be brought forward separately, including BSO, the Volunteer Fire Department, Waste Pro, and the Farmer's Market. There are also contracts that will expire in 2021 and may be brought forward to "piggyback" on another contract, including All on Stage Production for sound and light staging for Christmas-By-The-Sea, Ericks Consulting, Civic Plus Audio Eye Allay for Americans with Disabilities Act (ADA) accessibility software, Zambelli, and Kilowatt Electric for the authorization of additional funds to cover the rest of 2021 for electrical maintenance and installation. The Town will review its Strategic Plan for Marketing with regard to consultant Conceptual Communications and determine next steps for this contract.

Vice Mayor Oldaker asked why the Town's master list of contracts was not brought forward at an earlier time, pointing out that some of the contracts have already reached their expiration dates. Interim Town Manager Connors explained that this issue is not expected to recur next year. There are mechanisms in place to generate a report of contracts set to expire in the near term, so the Town may either renew or extend them or prepare a request for proposal (RFP).

Commissioner Oldaker recalled that in 2020, the Commission had had to renew its hurricane debris removal contract because its expiration date was pending in the short term. He asserted that Staff should regularly review this list as an administrative function and bring these contracts before the Commission for approval before their expiration.

Commissioner Sokolow made a motion, seconded by Vice Mayor Oldaker, to renew the Table 1 contracts. Motion carried 5-0.

14. COMMISSIONER COMMENTS

Commissioner Malkoon stated that he was anticipating the return to in-person meetings, including input from Town residents, at Jarvis Hall in May. He thanked Staff for their work during the pandemic.

Vice Mayor Oldaker addressed the upcoming budget process, reiterating that the Town's tax base is expected to be very favorable in the coming year.

Mayor Vincent reiterated the Commission's directive to Staff regarding the reevaluation of COVID-19-related restrictions in the Downtown area, which were discussed at a previous meeting. He noted that Staff is reaching out to Downtown businesses to ensure that they return to their original outdoor café design plans and observance of noise and other regulations. He emphasized that while it may take time to return to normal enforcement, the Town has not abandoned these issues.

15. ORDINANCES 1ST READING

None.

16. ORDINANCES 2ND READING

None.

17. RESOLUTIONS – PUBLIC COMMENTS

- a. Resolution 2021-26 -- APPROVING AND AUTHORIZING TOWN OFFICIALS TO EXECUTE A CONSTRUCTION AGREEMENT BETWEEN THE TOWN OF LAUDERDALE-BY-THE-SEA AND THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION FOR PURPOSES OF CONSTRUCTING CROSSWALK ENHANCEMENTS WITHIN THE STATE RIGHT-OF-WAY.**

At this time Mayor Vincent opened public comment, which he closed upon receiving no input.

Vice Mayor Oldaker noted that there has been a positive pedestrian response to a new sidewalk and crosswalk installed by the Town, and observed that he looked forward to finalization of the A1A crosswalk so pedestrians can safely cross at this location.

Commissioner Sokolow made a motion, seconded by Vice Mayor Oldaker, to approve. Motion carried 5-0.

18. QUASI JUDICIAL PUBLIC HEARING

None.

19. ADJOURNMENT

With no other business to come before the Commission at this time, the meeting was adjourned at 8:45 p.m.

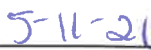


Mayor Chris Vincent

ATTEST:



Town Clerk Tedra Allen



Date

April 27, 2021
Town Commission Meeting
Public Comments

1. Barbara Cole, resident (161 words)

I do hope this is the last virtual meeting in our Town and that at the next one public comments are at the podium to a dais with all 5 Commissioners with plexiglass between them a room with chairs following the latest 3 feet apart CDC guidelines instead of the plan shown which are antiquated. I also ask that multiple alerts go out weeks ahead of the opening.

The CIP workshop which contains important items such as El Mar Drive and the neighborhoods designated for big budget design projects require that those impacted have a say in person! Please start insisting on backup and prior studies before rubber-stamping new studies such as traffic turning for Benihana or replacing portals. This Town has most likely dealt with all such issues before many times over. Finally, please direct the Town to put the rest of the chairs and benches back in the plazas which should have been done a long time ago.

2. Scot Sasser, resident

Honorable Mayor, Vice Mayor and Commissioners,

There is an item in the Town Manager's Report this evening regarding distancing requirements for Smoke Shops that states we now have 3 Smoke Shops in Town. The Mayor my recall that back in October of 2010 we discussed Ordinance 2010-15 where the Commission discussed specific businesses that should no longer be allowed in Town. These included, specifically consignment shops, electrical shops, paint-wallpaper & flooring, auto supply, funeral home, head/smoke shops and more radio/electronics. I remember this because smoke/head shops was specifically my concern. The item was discussed at P&Z 1st reading and was discussed at a Commission Roundtable. In all fairness I tried to research Ordinance 2010-15 but the online archives only go back to 2012. I would urge you to ask staff to research this Ordinance for your back-up and ask how we now have 3 smoke shops in town? Perhaps the final Ordinance failed to list prohibited uses but it would be well worth researching to find out.

I also researched the permitted uses in the Town Code and found the below. You should ask yourselves how not 1 but 3 smoke shops are now operating in Lauderdale-By-The-Sea. It is painfully obvious the process broke down somewhere. The only permitted use even close would be "Specialty Shop" which, lets face it, is a stretch and much too broad of an interpretation. It's unfortunate that we now have 3 smoke/head shops in our Town. Please research how this could happen and bring the answers back to public forum.

We cannot lessen the standards we have set for Lauderdale-By-The-Sea nor should we let all the hard work and investment over the last decade be degraded! I remember several years later there was much more discussion about marijuana dispensaries and we decided to restrict those uses. We need to make sure these do not slide in under the radar along with tattoo shops and other uses that could further impact the aesthetics and culture we have cultivated. Since the genie is out of the bottle regarding smoke shops I urge you to do everything you can to restrict further proliferation.

TOWN OF LAUDERDALE-BY-THE-SEA

PLANNING AND ZONING REGULAR MEETING MINUTES

Town Commission Meeting Room

Wednesday, September 15, 2010

6:30 P.M.

I. CALL TO ORDER

Chairman Oldaker called the meeting to order at 6:30 P.M. Members present were Chairman Alfred Oldaker, Vice Chair Yann Brandt, Lawrence Wick and First Alternate Eric Yankwitt. Also present were Jeff Bowman, Director of Development Services, Town Attorney Susan Trevarthen, and Planning Consultant Walter Keller. Board Secretary Colleen Tyrrell was present to record the minutes of the meeting.

II. PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

III. APPROVAL OF MINUTES

Regular Meeting of the Planning and Zoning (P & Z) Board – July 21, 2010

All voted in favor to approve the July 21, 2010 minutes as presented.

Chairman Oldaker noted there was a vacancy on the Board for a second alternate position and suggested the Board request the Commission appoint someone to fill the vacant position.

A motion was made and seconded to forward a Planning & Zoning Board recommendation to the Town Commission to appoint a second alternate on the Board. In a roll call vote, the motion passed 4 – 0.

Town Attorney Trevarthen noted when the initial appointments were made, everyone that submitted an application was appointed a Board seat, and the Commission ran out of candidates. Several months had passed, and it could be possible to recruit other persons to become Board members. Selection of Board members, according to Town Code, took place at the beginning of each new Commission being established; thus, the votes for the present P & Z Board were taken in the spring after the current Commission was sworn in.

IV. NEW BUSINESS

Project:

Applicant:

Location:

Request: (A) The Planning and Zoning Board to provide recommendations to the Town Commission to the proposed amendments to the Towns' Code of Ordinances.

Item #1. Permitted uses in the B-1 and B-1A Zoning District

Director of Development Services Jeff Bowman gave a brief background of why the subject item was before the Board. In the past, if a proposed business wishing to locate in the Town was not a permitted use for a particular zoning district, they had to go through a number of processes that might take up to three months to get the desired use into the Town's Code. At the July 14, 2010 Commission Roundtable,

direction was given to staff to broaden the use criteria in the Code, reducing the need to amend the Code to accommodate individual businesses.

Chairman Oldaker asked if on the original short list affected the types of businesses that were permitted because of the small size of Lauderdale-By-The-Sea.

Mr. Bowman felt unable to speak to the intent of prior Commissions as to the limitation of the types of uses they felt were appropriate for the Town's business zoning districts.

Town Consultant Walter Keller remarked during his work for the Town over a number of years as a consultant, he did different versions of the Town's zoning code; the Town was small, and the variety of business uses were small in number. He thought there was a desire among the Town's citizens to limit commercial businesses to uses more conducive to neighborhoods, having less impact and being more tourist oriented. Upon observation, it could be seen that the business district catered more to tourists going toward the ocean and more office commercial going west, with restaurants scattered throughout the Town. In his approach to satisfying the Commission's wish to broaden the criteria for permitted business uses, he sought to limit commercial uses to be more oriented to community-type businesses, neighborhood businesses, rather than high intensity business or industrial uses that he believed might not be conducive to the Town. He examined the codes for other cities; for example: Fort Lauderdale, Pompano Beach, Deerfield Beach in Broward County, and Delray Beach in Palm Beach County. He discovered Fort Lauderdale tended to group their uses, while other codes were less specific. Including in the Board's backup was his complete list; he limited the business uses to be those that did not include more intensive uses; that is: big box uses, etc. or highway intensive uses that might generate a lot of traffic. Uses that might have a neighborhood impact were left off the list. The aim was for the business uses to be diverse in nature, but to the extent that they caused few neighborhood impacts, as residential uses were very close to commercial businesses. He reviewed his August 23, 2010, memo contained in the backup, specifically page two where it contained a list of uses on the left-hand side of the page, and possible additional uses listed in green on the right side of the same page; the uses were grouped by zoning district. There were a few uses that could possibly be a benefit to the Town but might have impacts; these he listed as possible conditional uses.

Vice Chairman Brandt asked if there was a requested action item or some form of recommendation staff wished from the Board.

Mr. Bowman responded if the Board approved Mr. Keller's suggested uses, they would be given to Town Attorney Trevarthen's firm where they would be drafted into an ordinance form for first reading by the Town Commission.

Chairman Oldaker asked if the proposed list of added uses could be considered sufficiently all-encompassing to satisfy the Commission's direction to staff.

Town Attorney Trevarthen was unable to say whether the Commission had a preconceived notion of what the additional uses should be; rather, they wished staff and the consultant to recommend additional uses that were suitable for the Lauderdale-By-The-Sea community. If the Board had any concerns as to the suitability of any of the suggested uses, they should voice their views, including any existing uses they felt should be deleted.

Mr. Keller encouraged the Board to add any suitable business uses they felt applied if they did not see them on the list.

Vice Chairman Brandt felt the Board, staff, and the Commission should review the list of business uses every six months to determine their status, if there were any changes, etc. Lauderdale-By-The-Sea was a family town and all parties concerned needed to be proactive with regard to the Code to take advantage of as many business opportunities as possible, keeping in mind what was best for the Town's citizens. He wished to make a motion to move the process forward with the list provided by Mr. Keller.

Chairman Oldaker inquired how the reexamination of the list at regular intervals could be incorporated in the language of the ordinance.

Town Attorney Trevarthen suggested the Board focus on what it wished to do with the list before them; the idea of having an established time period by which the list of business uses was reexamined was good. The Board could simply instruct staff to bring the matter up for discussion on its agenda, as with the applications from potential businesses being submitted for Town staff review, there would be a level of awareness as to how accommodating the Town's business use code would be. She commented Mr. Keller's approach to the recommended additional businesses uses was correct, as she could not recommend lifting all of the uses from, for example, the City of Fort Lauderdale, as there were vast differences between the two cities, a very significant one being size. The use of planning advice and guidance from a consultant was wise, as whether or not to include a use on the recommended list was an important decision to make; all the uses on the list had different professional standards with varying impacts/demands they created. She pointed out some uses had different commercial purposes, as some were regional in nature and drew patrons from a far distance, while others catered more to the local community.

Mr. Yankwitt thought the list of uses was comprehensive but expressed concern as to some of the types of businesses, such as a tattoo parlor or an exotic lingerie store, even the definition of a massage therapist is subject to interpretation. He was unsure if the list encompassed those types of uses or were they treated in a different way.

Town Attorney Trevarthen did not see tattoo parlors among the uses listed as recommended uses.

Mr. Yankwitt queried if a use was not listed, was it understood that it was not permitted.

Town Attorney Trevarthen affirmed this to be the case, and this was the way the Code was written. Licensed massage therapists were state regulated, and it was a species of use not necessarily related to the kinds of uses mentioned by Mr. Yankwitt.

Mr. Wick requested a description of where B-1 and B-1A districts were located.

Mr. Bowman responded the B-1A zoning district was located at the intersection of Seagrape and Commercial Blvd.; it encompassed two corners.

Mr. Wick pointed out in the City's B-1 district, the list of additional uses did not mention a flower shop, and there were uses mentioned that already existed in the Town. For instance: a massage place and a barber shop; more of such uses should be limited, while others should be added as conditional uses, including: water craft sales, charter and sightseeing boats. He thought these would help, as the Town had a water basin.

Mr. Keller commented the Town was unique, in that it had some order-oriented property: the intercoastal, the beach and the area around the basin drive. He reviewed the marine type uses and was concerned about permitting heavy marine uses, due to the proximity to the residential area. If a particular use generated a significant amount of traffic and noise, whether from boats, cars, etc., this would further impact the residential area. He felt somewhat restricted in the types of uses he could suggest, noting it was hard to expand marine uses in the water basin area; there was very little parking and residential uses were so close.

Member. Wick mentioned in the basin drive area there was a yacht sales business.

Mr. Keller explained, in compiling the list of recommended businesses uses, he did not take into account all the existing uses, noting they played no part in what he looked at. He examined what uses were spelled out in the existing codes, as indicated in the memo in the backup, after which he looked at what uses the existing codes did not contain compared to other cities' codes. Some of the uses in the Town could have been approved many years prior, as there were uses that were very similar to others, and staff would analyze what might look like a new use, examine the Code and the experience within the community, and there were instances when staff could make the determination that a use was allowable or not allowable in the Town. For those uses staff felt unable to make a decision as required by the Town's general zoning and planning principles and efforts, they would seek the input of the Commission.

Member. Wick suggested bringing back the water taxi, as this would bring more tourism to the Town, and the Women's Club building, which they used only on certain days of the month might be an ideal place to use for this purpose.

Chairman Oldaker interjected the water taxi would go through canals that were purely residential. The yacht broker might occasionally take a yacht to test drive, but commercial vehicles traversing up and down the canals would be like a bus on a residential street. The residents on either side of the canal might have an objection to the water taxi.

Mr. Keller stated he saw no problem having a water taxi along the intercoastal, though some problems arose when one of the uses in Town occasionally chartered a boat for a dinner cruise, and the latter would cause impacts in the community; as after the bus dropping people off, it would sit and run the entire time it waited for passengers to return.

Town Attorney Trevarthen gave a brief review of the Town's conditional use process for the benefit of the Board members.

Vice Chairman Brandt made a two-part motion: 1) to go with the list of additional uses recommended by Mr. Keller, as well as the conditional uses staying as conditional uses, as contained in the backup. 2) He recommended the code provision got drawn up, eliminating B-1A, which he heard was duplicitous and added little value.

Town Attorney Trevarthen added the second motion would carry with it a number of things. In order to get rid of B-1A, it would have to be stricken from the Code, a rezoning would have to be done of the current B-1A properties.

Vice Chairman Brandt withdrew his earlier motion to eliminate B-1A.

Town Attorney Trevarthen clarified the motion on the floor was to approve Mr. Keller's recommendation before the Board, including the items listed in red on page three of the handout; those would be included as conditional uses.

Chairman Oldaker concurred.

Mr. Yankwitt asked if the water taxi use was being considered presently.

Town Attorney Trevarthen pointed out the listed uses for approval included charter and sightseeing boat, asking Mr. Keller if the water taxi could fit within that use.

Mr. Keller was unsure how the water taxi use was to be treated, as it functioned more like a bus. He clarified he was not vetoing the consideration of uses not included on his list, but making some uses conditional gave the Town more flexibility, and it was likely other language would be included in the Code to address conditional uses appropriately. The water taxi service might not need to be listed as a specific use, as they were not a business having no specific office situated in the Town.

Vice Chairman Brandt made a motion to approve the recommended list of uses by Mr. Keller, as set forth in the backup, seconded by Mr. Wick.

In a roll call vote, the motion passed 4 – 0.

Item #2. Amendments to Section 30-313 (31) Accessory Buildings and Structures.

Vice Chairman Brandt requested an explanation from staff as to the difference in Subsection A, specifically: accessory buildings and structures, that he might draw the difference between the items in Subsection A, B and Subsection 2.

Mr. Bowman explained accessory buildings were those that might be detached from primary buildings, such as garages, clubhouses for multifamily condominiums, etc., as detailed in Subsection A. B1 and B 2 pertained specifically to sheds based on the direction given to staff by the Commission to include in the ordinance language to address sheds and removable structures.

Vice Chairman Brandt questioned how it was possible to build a garage half the height of any principal buildings containing two-family or multifamily dwellings.

TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

REGULAR MEETING

MINUTES

Jarvis Hall

4505 Ocean Drive

Tuesday, October 12, 2010

7:00 P.M.

1. CALL TO ORDER, MAYOR ROSEANN MINNET

Mayor Roseann Minnet called the meeting to order at 7:00 p.m. Vice Mayor Stuart Dodd, Commissioner Birute Ann Clottey, Commissioner Chris Vincent, and Commissioner Scot Sasser were present. Also present were Town Attorney Susan L. Trevarthen, Town Manager Connie Hoffman, Town Clerk June White, and Deputy Clerk Nekisha Smith.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION

Mayor Minnet called for a moment of silence.

4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS

Mayor Minnet stated that an additional request for free parking had been made for Consent items 9a and 9b. She also noted the addition of the item, "transfer of location for the Music by the Sea event on October 30, 2010", to the Consent agenda as item 9f.

Attorney Trevarthen stated that information was received in relation to the Town's involvement with the challenge to Senate Bill 360. Mayor Minnet stated that it would be addressed under the Town Attorney report.

Mayor Minnet welcomed Constance Hoffmann as this was her first Commission meeting as the "official" Town Manager. She added that October was the start of the new schedule of Commission meetings; one (1) regular Commission meeting and one (1) Roundtable meeting. Mayor Minnet said that the schedule was a work in progress and under the Resolution it could be changed to fit the needs of the Commission and Town staff. Attorney Trevarthen stated that the Resolution was written to be open-ended which allowed the Commission to have meetings when they were needed.

5. PRESENTATIONS

Mayor Minnet asked for clarification on whether the applicant would be charged for the electrical use. Town Manager Hoffmann said they would not be charged.

Commissioner Vincent made a motion to approve and to delete the provision requiring portables and not to charge the applicant for electrical use. Commissioner Clotey seconded the motion. The motion carried 5 - 0.

d. Modification to Advertising Policy to Fill a Position Permanently (Town Manager Connie Hoffmann)

Commissioner Vincent made a motion to approve. Commissioner Clotey seconded the motion. The motion carried 5 - 0.

e. Valet Trial Period: 60-day Evaluation Report (Interim Assistant Town Manager Bud Bentley)

Mayor Minnet stated that the valet was working although it was not at the height of the season. She stated that there was an evaluation report that recommended another 60 day trial period.

Vice Mayor Dodd made a motion to approve. Commissioner Vincent seconded the motion. The motion carried 5 - 0.

Town Manager Hoffmann later stated that the recommendation was actually a 90 - 91 day extension for valet or until February 27, 2011. She noted the motion was made for 60 days. Attorney Trevarthen stated there was no need to redo the motion as the motion to approve was general in nature. She said it could be interpreted to extend the valet service to February 27, 2011.

10. ORDINANCES - PUBLIC COMMENTS

1. Ordinances 1st Reading

a. Ordinance 2010-15: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING ARTICLE V "ZONING" OF CHAPTER 30 OF THE CODE OF ORDINANCES BY AMENDING SECTIONS 30-261, "B-1-A DISTRICT - BUSINESS" AND 30-271, "B-1 DISTRICT - BUSINESS" TO REVISE THE USES PERMITTED IN THESE ZONING DISTRICTS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE

Attorney Trevarthen read Ordinance 2010-15 by title. Development Services Director Bowman explained that this Ordinance would allow additional business uses within the B-1 and B-1A Business District. He added that staff recommended approval.

Mayor Minnet opened the meeting for public comments. With no one wishing to speak, Mayor Minnet closed the public comment portion of the meeting.

Vice Mayor Dodd inquired as to why the height section, line 143, section b (2), was included in the Ordinance. Attorney Trevarthen explained that this section was put together based on the study prepared by Planner Keller and recommended by the Planning and Zoning Board. She said sub-sections b (2) and b (4) and was existing text and included in order for the Commission to see all of the B1A provisions.

Commissioner Sasser inquired of the recommended recreational uses and the criteria. Attorney Trevarthen said that Planner Keller prepared the report with recommendations that included permitted uses and referred to conditional uses. She added that was not anticipated at the time of the Notice of Intent.

Commissioner Sasser asked whether everyone considered all of the uses. He said he had questions and rather than go through each one, he inquired as to whether the Ordinance could be approved on 1st reading and placed on roundtable to discuss changes for 2nd reading. Attorney Trevarthen said yes.

Commissioner Clotley asked why the Ordinance was not written to allow all permitted uses except certain uses. Mayor Minnet wanted to encourage business coming in to town. She asked whether discretion could be given to the Town Manager to give flexibility.

Attorney Trevarthen said that from a legal standpoint, a list of prohibited uses and a list of permitted uses were the most common style nationally. She added that it was possible to write in a phrase that said "or similar uses", creating an interpretation that could be carried out by staff; a process would need to be put in place.

Mayor Minnet agreed with Commission Sasser to approve the Ordinance on 1st reading and move it to Roundtable for further discussion.

Vice Mayor Dodd made a motion to adopt Ordinance 2010-15 on 1st reading and to place on the October 26, 2010 Roundtable agenda for discussion regarding possible changes. Commissioner Sasser seconded the motion. The motion carried 5 - 0.

- b. Ordinance 2010-16: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE SEA, AMENDING CHAPTER 30, UNIFIED LAND DEVELOPMENT REGULATIONS, ARTICLE VIII. SIGN REGULATIONS, TO REVISE PROVISIONS AND CLARIFY TERMS, REQUIREMENTS AND STANDARDS REGARDING SIGN REGULATIONS; FURTHER CREATING A NEW SECTION 30-510, SEVERABILITY REGARDING SIGN REGULATIONS; PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE

Attorney Trevarthen read Ordinance 2010-16 by title. She explained that this ordinance would provide clarification and interpretation. Attorney Trevarthen added that the severability clause was good to have if the Ordinance was challenged.

Mayor Minnet opened the meeting for public comments. With no one wishing to speak, Mayor Minnet closed the public comment portion of the meeting.

TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

REGULAR MEETING

MINUTES

Jarvis Hall

4505 Ocean Drive

Tuesday, November 9, 2010

7:00 P.M.

1. CALL TO ORDER, MAYOR ROSEANN MINNET

Mayor Roseann Minnet called the meeting to order at 7:00 p.m. Vice Mayor Stuart Dodd, Commissioner Birute Ann Clotey, Commissioner Chris Vincent, and Commissioner Scot Sasser were present. Also present were Town Attorney Susan L. Trevarthen, Town Manager Connie Hoffmann, Town Clerk June White, and Deputy Clerk Nekisha Smith.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION - Reverend George Hunsaker

Reverend George Hunsaker gave the Invocation and thanked fellow Veterans who served on our behalf.

4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS

Commissioner Sasser requested that Consent items 9b, 9d, and 9e be pulled for discussion. Mayor Minnet acknowledged the request and stated they would be pulled when the Consent Agenda came up for discussion.

5. PRESENTATIONS

a. Presentation of Proclamation (Chief Oscar Llerena)

Chief Llerena thanked the Commission and stated that the retirement of Sergeant Doug Brown would be a great loss to BSO. He added that BSO was having a party downtown for Sergeant Brown on November 19, 2010, and everyone was invited. Mayor Minnet thanked Sergeant Brown for his service and read the proclamation into record.

b. Presentation of Proclamation (Mayor Roseann Minnet)

There were no ordinances for 1st reading.

2. Ordinances 2nd Reading

- a. Ordinance 2010-15: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING ARTICLE V "ZONING" OF CHAPTER 30 OF THE CODE OF ORDINANCES BY AMENDING SECTIONS 30-261, "B-1-A DISTRICT - BUSINESS" AND 30-271, "B-1 DISTRICT - BUSINESS" TO REVISE THE USES PERMITTED IN THESE ZONING DISTRICTS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE
Approved on first reading at the October 12, 2010 Commission meeting - Revised at the October 26, 2010 Roundtable

Attorney Trevarthen read Ordinance 2010-15 by title. She explained that this ordinance reflected the Commission changes made at the October 26, 2010 Roundtable.

Mayor Minnet opened the meeting for public comments.

Louis Marchelos believed the Commission needed to re-think this ordinance. He said these were hard times, and restricting businesses was the opposite of what was needed. Mr. Marchelos said some restriction was necessary but it already existed in the code and in the cooperation of neighbors. He stated that an amendment to the existing ordinance was time consuming, inefficient and not fair to property owners.

Zohir Benredda said he dropped off an application to the building department that took 6 weeks. He said he was never told that he was not allowed to have this type of business until last week.

Bill Ciani stated that the ordinances needed to be clear and that hard times did not call for relaxing of the restrictions.

With no one else wishing to speak, Mayor Minnet closed the public comment portion of the meeting.

Mayor Minnet thanked Director Bowman for his efforts in working with staff and the Town Attorney. Vice Mayor Dodd believed the Town was too restrictive in the exclusions from what was originally proposed and a high end consignment store should be included. He stated that the Commission should have made a distinction between electrical wholesale operations and electrical retail goods. He did not want to exclude kitchen appliances or lighting but believed that striking out electrical supply would do that.

Commissioner Vincent stated that everyone should look at what the current code allowed as opposed to what was being proposed. Director Bowman pointed out that the type of business use that Mr. Benredda requested was not permitted under the current code. He said he diligently tried to get Mr. Benredda an answer in a reasonable

amount of time. Director Bowman added that nothing was put in the ordinance or removed from the ordinance that would exclude any current business with the exception of cigar and tobacco shops.

Attorney Trevarthen explained that the current code did not address a cigar and tobacco store. She said the 1st reading of the ordinance included a cigar and tobacco store as a recommended use, but it was removed from the proposed ordinance at the October 26, 2010 Roundtable.

Commissioner Vincent asked whether the tobacco store currently in Town was grandfathered in. Director Bowman said he was not certain of what the previous use was to confirm whether it was grandfathered. He said that it could be considered a specialty shop as well. Attorney Trevarthen stated that if there was any business in Town that was not part of the current adopted code, they would be non-conforming and unless action was taken to get rid of them, they would remain and continue to operate within the community.

Commissioner Vincent asked whether there were any ongoing problems or complaints with this particular type of business. Director Bowman said there were never any problems with that business.

Mayor Minnet believed the Commission needed to recognize and include dive shops, a dance studio, and consider a home furnishings type of business that would include hardware and lighting and to stay away from home improvement stores which tended to be very large. She said that if the thrift shop could be stricken from thrift store/consignment shop there would be no problem with a consignment shop. She suggested taking a closer look at the ordinance and allow for some of the uses discussed.

Commissioner Sasser said it was important to note that the proposed ordinance was more relaxed than the current code. Attorney Trevarthen stated that a similar use clause was also added.

Commissioner Sasser asked whether a tobacco shop could be allowed but add language that would prevent drug paraphernalia. Attorney Trevarthen stated that there was a statute that allowed tobacco shops to have water pipes, bongs, and other paraphernalia, which is being challenged. She said the Town could avoid this use by not listing it and address it at a later date.

Commissioner Vincent inquired as to what would prevent the current cigar shop from selling drug paraphernalia. Attorney Trevarthen stated that the current statute allowed them to do so if they met the requirements.

Town Manager Hoffmann reviewed the list of the changes the Commission wanted. She asked whether the Commission wanted to keep retail electrical supply store, or would it be covered by adding a home furnishings store. Vice Mayor Dodd was happy with home

furnishings retail and wanted lighting included. Mayor Minnet said that home furnishing could include flooring, wallpaper, paint, lighting and electrical.

Vice Mayor Dodd made a motion to adopt Ordinance 2010-15 with addition of consignment stores but keep thrift stores stricken, add dive shops to the description of sporting goods stores, add home furnishing retail store, and add dance studios to the description that called for artist & musician studios.

Attorney Trevarthen questioned the motion as to whether the Commission intended for the changes to be made to both business districts. The Commission confirmed it was for both districts. Commissioner Sasser seconded the motion. The motion carried 5 - 0.

- b. Ordinance 2010-17: AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 30 "UNIFIED LAND DEVELOPMENT REGULATIONS" TO CREATE SECTION 30-22 "ZONING RELIEF PROCEDURES" TO ADDRESS POSSIBLE UNINTENDED VIOLATIONS OF FEDERAL AND STATE LAWS IN THE IMPLEMENTATION OF THIS CODE OR ITS RELATED RULES, POLICIES, AND PROCEDURES; PROVIDING FOR SEVERABILITY, CONFLICT, CODIFICATION, AND AN EFFECTIVE DATE
Approved on first reading at the October 12, 2010 Commission meeting

Attorney Trevarthen read Ordinance 2010-17 by title.

Mayor Minnet opened the meeting for public comments.

Diane Boutin asked whether a change in business uses would impact potential parking. She also inquired as to whether any of the proposed expanded business uses would meet Broward County license requirements.

With no one else wishing to speak, Mayor Minnet closed the public comment portion of the meeting.

Attorney Trevarthen stated that the Ordinance was not intended to address the parking problem that Ms. Boutin referred to. She said the ordinance allowed those who would not normally meet the requirements to come before the Commission and present their case, to which the Commission had the choice to grant the use or not.

Vice Mayor Dodd made a motion to adopt Ordinance 2010-17. Commissioner Vincent seconded the motion. The motion carried 5 - 0.

11. RESOLUTION - "Public Comments"

- a. Resolution 2010-37: A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AUTHORIZING AND DIRECTING THE APPROPRIATE TOWN OFFICIALS TO EXECUTE A GRANT APPLICATION FOR FUNDS

ORDINANCE 2010-15

AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-
THE-SEA, FLORIDA, AMENDING ARTICLE V "ZONING"
OF CHAPTER 30 OF THE CODE OF ORDINANCES BY
AMENDING SECTIONS 30-261, "B-1-A DISTRICT -
BUSINESS" AND 30-271, "B-1 DISTRICT - BUSINESS" TO
REVISE THE USES PERMITTED IN THESE ZONING
DISTRICTS; PROVIDING FOR SEVERABILITY,
CONFLICTS, CODIFICATION, AND AN EFFECTIVE
DATE

WHEREAS, the Town Commission recognizes that changes to the adopted Code of Ordinances are periodically necessary in order to ensure that the Town's land development regulations are current and consistent with the Town's planning and regulatory needs; and

WHEREAS, the Town Commission desires to revise the permitted uses in the B-1-A and B-1, Business Districts, of the Town's zoning regulations; and

WHEREAS, Section 30-531 of the Code requires issuance of a Notice of Intent prior to the processing of any amendment to the land development regulations in Chapter 30 of the Code, and such notice was given of this amendment on August 25, 2010; and

WHEREAS, the Planning and Zoning Board, sitting as the Local Planning Agency, has reviewed the Code revisions contained in this Ordinance at a duly noticed hearing on September 15, 2010, and recommended their adoption; and

WHEREAS, the Town Commission conducted a first and second reading of this Ordinance at duly noticed public hearings, as required by law, and after having received input from and participation by interested members of the public and staff, the Town Commission has determined that this Ordinance is consistent with the Town's Comprehensive Plan and in the best interest of the Town, its residents, and its visitors.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE
TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, THAT:

SECTION 1. Recitals. The preceding "Whereas" clauses are ratified and incorporated
as the legislative intent of this Ordinance.

SECTION 2. Amendment. Section 30-261 of the Code of Ordinances is amended as
follows¹:

Section 30-261. B-1-A district – Business.

(a) *Area affected.*

The area to be affected by the provisions of this subdivision is Lots 50, 51, 52 and
53, fronting on Bougainville Drive and Lots 55, 56, 57 and 58, fronting on Poinciana
Street, all in Block 28, Town of Lauderdale-By-The-Sea, according to the plat thereof as
recorded in Plat Book 6, page 2, of the public records of Broward County, Florida.

(b) *B-1-A uses permitted:*

(1) Definitions.

A. "Restaurant," for the purposes of this subdivision, is any
establishment where facilities are provided for preparing and serving food to the
public.

B. For the purpose of this section, the definition of motorized scooter
and the definition of moped shall be as set forth in Florida Statutes Section
316.003.

(2) Uses. No building or premises shall be used, and no building with the
usual accessory uses shall be erected or altered, other than a building or
premises arranged, intended, or designed for any of the following uses;

A. antiques store,

B. art galleries,

C. arts & crafts supply store,

D. automobile rental or leasing agencies (no outdoor display),

E. bait and tackle shop,

F. bakery,

G. beauty schools, barber shops and hair salons,

¹ Additions to existing text are shown in underline. Deletions are shown in ~~strikethrough~~. Changes since first
reading are shown in **bold**.

63	<u>H.</u>	<u>bicycle rental shop with no outside storage,</u>
64	<u>I.</u>	<u>book store,</u>
65	<u>J.</u>	<u>business and professional employment agency,</u>
66	<u>K.</u>	<u>camera and photographic supply store,</u>
67	<u>L.</u>	<u>card and stationery store,</u>
68	<u>M.</u>	<u>catering,</u>
69	<u>N.</u>	<u>church or place of worship,</u>
70	<u>O.</u>	<u>clothing,</u>
71	<u>P.</u>	<u>coin-operated dry cleaning and laundry and/or pickup station,</u>
72	<u>Q.</u>	<u>and community theaters, dinner theaters, and cultural centers;</u>
73	<u>R.</u>	<u>computer/software store,</u>
74	<u>S.</u>	<u>consignment</u>
75	<u>T.</u>	<u>convenience store,</u>
76	<u>U.</u>	<u>cooking schools,</u>
77	<u>V.</u>	<u>copy center,</u>
78	<u>W.</u>	<u>courier service,</u>
79	<u>X.</u>	<u>delicatessen,</u>
80	<u>Y.</u>	<u>dental laboratory,</u>
81	<u>Z.</u>	<u>drug-store/pharmacy (no on-site prescription writing for</u>
82		<u>controlled substances identified in Schedule II, III, or IV in</u>
83		<u>Sections 893.03, 893.035, or 893.0355, Florida Statutes),</u>
84	<u>AA.</u>	<u>fabric/needlework/yarn shop,</u>
85	<u>BB.</u>	<u>florist shop,</u>
86	<u>CC.</u>	<u>formal wear sales and rental,</u>
87	<u>DD.</u>	<u>fruit and produce store,</u>
88	<u>EE.</u>	<u>furniture and home furnishings,</u>
89	<u>FF.</u>	<u>giftware,</u>
90	<u>GG.</u>	<u>government administration,</u>
91	<u>HH.</u>	<u>hardware,</u>
92	<u>II.</u>	<u>health and fitness center,</u>
93	<u>JJ.</u>	<u>household appliances store,</u>
94	<u>KK.</u>	<u>ice cream/yogurt store,</u>
95	<u>LL.</u>	<u>interior decorator,</u>
96	<u>MM.</u>	<u>jewelry store,</u>
97	<u>NN.</u>	<u>library branch,</u>
98	<u>OO.</u>	<u>linen/bath/bedding store,</u>
99	<u>PP.</u>	<u>luggage/handbag/leather goods store,</u>
100	<u>QQ.</u>	<u>mail/postage/fax service,</u>
101	<u>RR.</u>	<u>marine parts and supplies store,</u>
102	<u>SS.</u>	<u>market, grocery/food store/supermarket,</u>
103	<u>TT.</u>	<u>massage therapist (licensed therapist to be on premises at all</u>
104		<u>times of operation),</u>
105	<u>UU.</u>	<u>meat and poultry store,</u>
106	<u>VV.</u>	<u>medical supplies sales,</u>
107	<u>WW.</u>	<u>motorized scooter or moped sales and rentals,</u>

- XX. museum,
YY. music/musical instrument store,
ZZ. office building,
AAA. optical store,
BBB. party supply store,
CCC. personnel services,
DDD. photographic studio,
EEE. police and fire substation,
FFF. retail electronic sales and repair,
GGG. restaurant, including sidewalk cafés which would be
 appurtenant to, and a part of, a restaurant,
HHH. seafood store,
III. shoe sales and repair,
JJJ. shop for making articles sold at retail on the premises,
KKK. specialty shop,
LLL. sporting goods store, including dive shops
MMM. studios for artists, photographers, musicians (including
 recording studios), and dance,
NNN. sundries,
OOO. tailor/dressmaking store, direct to the customer,
PPP. tapes/videos/music cd stores,
QQQ. tool rental (small tools and equipment, indoor display only).
RRR. toy/game store,
SSS. trade/business school,
TTT. travel agency,
UUU. veterinarian or animal grooming with all activities enclosed
 within the building with no outside noise,
VVV. watch and jewelry repair,
WWW. Drive-through services that are accessory to a use in this
 zoning district shall be allowed only as a conditional use requiring
 Planning and Zoning Board review and Town Commission approval,
 provided that any approval of the drive-through use by the Town
 Commission shall specifically establish the location and traffic flow
 pattern of the drive through.
XXX. Uses not listed. Any use not covered by the above list may
 be authorized in the B-1-A district by the Town Manager or designee
 only if the proposed use is similar to a listed use; otherwise, an
 amendment to this chapter is required. The Town Manager or
 designee shall consult with the Town Commission on any proposal to
 find that a use is similar, prior to authorizing such use in the B-1-A
 district.

~~construction shall be limited to one building on B-1-A lots 50 feet or less in~~
~~width. Restaurant for the purposes of this subdivision, is any establishment where~~
~~facilities are provided for preparing and serving food to the public.~~

- (2) *Height.* No building shall be erected to a height greater than two stories on single 25-foot lots, nor greater than three stories on 50-foot lots.
- (3) *Areas.* No building which is used for residence purposes above the ground floor shall occupy an area greater than 70 percent of the entire lot. The required lot area per apartment or kitchen unit shall be 800 square feet. The required floor area for a kitchen unit shall be not less than 250 square feet minimum and the area for a hotel room with bath shall not be less than 200 square feet. Buildings ~~requiring light and ventilation, but~~ not used for residential purposes, shall not occupy more than 90 percent of the lot area.
- (4) *Residences.* All residences constructed in B-1-A districts shall conform to requirements for RS-5 districts hereinafter provided and all apartments, hotels, or rental units constructed in B-1-A districts shall conform to requirements for RM-25 districts, hereinafter provided.
- (5) *Design.* Construction shall be limited to one building on B-1-A lots that are 50 feet or less in width. All business buildings constructed in a business district shall be of C.B.S. construction and shall be designed with every practical consideration for appearance, fire protection, health, light, air, ~~and a~~ All plans and specifications of the building shall be approved by the Town Building Inspector. The Building Inspector need not approve design and use of a building and may ask the Town staff, Planning and Zoning Board or the Board of Adjustment for an official opinion or decision thereon. Open fronts are specifically prohibited in B-1-A districts and there shall be a maximum opening of ten feet by ten feet for doorways in each business building.

SECTION 3. Amendment. Section 30-271 of the Code of Ordinances is amended as

follows:

Section 30-271. B-1 district – Business.

The following part of the Town of Lauderdale-By-The-Sea is zoned as B-1 district: All of Blocks 5, 6, 13, 14, 20, 21, east half of Block 19 and Lots 18 and 19 of Block 28, according to the plat thereof recorded in Plat Book 6, page 2, of the public records of Broward County. The following part of the platted area of Unit "A" of the inclusive subdivision known as Silver Shores is zoned as B-1 district: All of Blocks A, B, C, D, E, F, G, and Lot 1 of Block 2. The following part of the platted area of Unit "B" of the inclusive subdivision known as Silver Shores is zoned as B-1 district: All of blocks H, J, K, L, M and Lot 1 of Block 14, according to the plat thereof recorded in Plat Book 31, of the public records of Broward County.

(a) *Uses.*

(1) Definitions.

A. "Restaurant," for the purposes of this Section, is any establishment where facilities are provided for preparing and serving food to the public in an enclosed building.

B. For the purpose of this section, the definition of "motorized scooter" and the definition of "moped" shall be as set forth in Florida Statutes Section 316.003.

(2) No building or premises shall be used and no building with the usual accessories shall be erected or altered other than a building or premises arranged, intended, or designed for any of the following uses:

- A. antiques store,
- B. art galleries,
- C. arts & crafts supply store,
- D. automobile rental or leasing agencies (no outdoor display),
- E. bait and tackle shop,
- F. bakery,
- G. beauty schools, barber shops and hair salons,
- H. bicycle rental shop with no outside storage,;
- I. book store,
- J. business and professional employment agency,
- K. camera and photographic supply store,
- L. card and stationery store,
- M. catering businesses,
- N. church and place of worship,
- O. clothing,
- P. coin-operated dry cleaning and laundry and/or pickup station,
- Q. community theaters, dinner theaters and cultural centers,;
- R. computer/software store,
- S. consignment
- T. convenience store,
- U. cooking schools,
- V. copy center,
- W. courier service,
- X. delicatessen,
- Y. dental laboratory,; and
- Z. drug (store)/pharmacy (no on-site prescription writing for controlled substances identified in Schedule II, III, or IV in Sections 893.03, 893.035, or 893.0355, Florida Statutes),

238		
239	<u>AA.</u>	<u>fabric/needlework/yarn shop,</u>
240	<u>BB.</u>	<u>fishing pier,</u>
241		
242	<u>CC.</u>	<u>florist shop,</u>
243	<u>DD.</u>	<u>formal wear sales and rental,</u>
244	<u>EE.</u>	<u>fruit and produce store,</u>
245		
246	<u>FF.</u>	<u>furniture, and home furnishings,</u>
247	<u>GG.</u>	<u>gift shop,</u>
248	<u>HH.</u>	<u>government administration,</u>
249	<u>II.</u>	<u>grocery/food store/supermarket,</u>
250	<u>JJ.</u>	<u>hardware,</u>
251	<u>KK.</u>	<u>health and fitness center,</u>
252		
253	<u>LL.</u>	<u>household appliances store,</u>
254	<u>MM.</u>	<u>ice cream/yogurt store,</u>
255	<u>NN.</u>	<u>interior decorator,</u>
256	<u>OO.</u>	<u>jewelry store,</u>
257	<u>PP.</u>	<u>library branch,</u>
258	<u>QQ.</u>	<u>linen/bath/bedding store,</u>
259	<u>RR.</u>	<u>luggage/handbag/leather goods store,</u>
260	<u>SS.</u>	<u>mail/postage/fax service,</u>
261	<u>TT.</u>	<u>marine parts and supplies store,</u>
262	<u>UU.</u>	<u>market,</u>
263	<u>VV.</u>	<u>massage therapist (licensed therapist to be on premises at all times of</u>
264		<u>operation),</u>
265	<u>WW.</u>	<u>meat and poultry store,</u>
266	<u>XX.</u>	<u>medical supplies sales,</u>
267	<u>YY.</u>	<u>motorized scooter sales or moped sales and rentals (indoor only,</u>
268		<u>outdoor sales, storage or display prohibited),</u>
269	<u>ZZ.</u>	<u>museum,</u>
270	<u>AAA.</u>	<u>music/musical instrument store,</u>
271	<u>BBB.</u>	<u>office building,</u>
272	<u>CCC.</u>	<u>optical store,</u>
273		
274	<u>DDD.</u>	<u>party supply store,</u>
275	<u>EEE.</u>	<u>personnel services,</u>
276	<u>FFF.</u>	<u>photographic studio,</u>
277	<u>GGG.</u>	<u>police and fire substation,</u>
278	<u>HHH.</u>	<u>retail electronic sales and repair,</u>
279		<u>restaurant, including sidewalk cafés which would be appurtenant to,</u>
280		<u>and a part of, a restaurant,</u>
281		
282		
283	<u>III.</u>	<u>seafood store,</u>

JJJ. shoe sales and repair,
KKK. shop for making articles sold at retail on the premises,
LLL. specialty shop,
MMM. sporting goods store, including dive shops
NNN. studios for artists, photographers, musicians (including recording studios), and dance
OOO. sundries,
PPP. tailor/dressmaking store, direct to the customer,
QQQ. tapes/videos/music cd stores,
RRR. tool rental (small tools and equipment, indoor display only),
SSS. toy/game store,
TTT. trade/business school,
UUU. travel agency,
VVV. veterinarian or animal grooming with all activities enclosed within the building with no outside noise,
WWW. watch and jewelry repair, and
XXX. ~~construction shall be limited to one on B-1-A lots 50 feet or less in width.~~ Drive-through services that are accessory to a use in this zoning district shall be allowed only as a conditional use requiring Planning and Zoning Board review and Town Commission approval, provided that any approval of the drive-through use by the Town Commission shall specifically establish the location and traffic flow pattern of the drive through. "Restaurant," for the purposes of this subdivision, is any establishment where facilities are provided for preparing and serving food to the public in an enclosed building. For the purpose of this section the definition of motorized scooter and the definition of moped shall be as set forth in F.S. ch. 316. All motorized scooter or moped sales and rental activity shall occur indoors and the outdoor display or storage of scooters, mopeds, or accessories shall be prohibited.
YYY. Uses not listed. Any use not covered by the above list may be authorized in the B-1 district by the Town Manager or designee only if the proposed use is similar to a listed use; otherwise, an amendment to this chapter is required. The Town Manager or designee shall consult with the Town Commission on any proposal to find that a use is similar, prior to authorizing such use in the B-1 district.

(b) *Height.*

No building shall be erected to a height greater than two stories on single 25-foot lots nor greater than three stories on 50-foot lots.

(c) *Areas.*

No building which is used for residence purposes above the ground floor shall occupy an area greater than 70 percent of the entire lot. The required lot area per apartment or kitchen unit shall be 800 square feet. The required floor area for a kitchen unit shall not be less than 250 square feet minimum and the area for a hotel room with bath shall not be

less than 200 square feet. Buildings ~~requiring light and ventilation~~, but not used for residential purposes, shall not occupy more than 90 percent of the lot area.

(d) *Residences.*

All residences constructed in B-1 or RD-10 districts shall conform to requirements for RS-5 districts hereinafter provided and all apartments, hotels, or rental units constructed in B-1 districts shall conform to requirements for RM-25 districts, hereinafter provided.

(e) *Design.*

Construction shall be limited to one on B-1-A lots 50 feet or less in width. All business buildings constructed in a business district shall be of C.B.S. construction and shall be designed with every practical consideration for appearance, fire protection, health, light, air, and aAll plans and specifications of the building shall be approved by the Town Building Inspector. The Building Inspector need not approve design and use of a building and may ask the Town staff, Planning and Zoning Board or the Board of Adjustment for an official opinion or decision thereon. Open fronts are specifically prohibited in B-1 districts and there shall be a maximum opening of ten feet by ten feet for doorways in each business building.

SECTION 4. Severability. If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconditional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

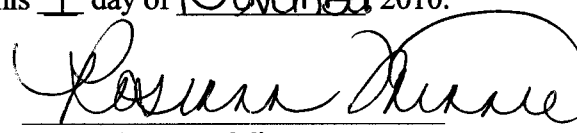
SECTION 5. Conflicts. All ordinances or parts of Ordinances and all Resolutions or parts of Resolutions in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 6. Codification. This Ordinance shall be codified.

SECTION 7. Effective Date. This Ordinance shall become effective immediately upon adoption on second reading.

SECTION 8. Adoption. Passed on the first reading, this 12th day of October, 2010.

Passed and adopted on the second reading, this 9th day of November 2010.


Mayor Roseann Minnet

365
366
367 Mayor Minnet
368 Vice-Mayor Dodd
369 Commissioner Clotney
370 Commissioner Sasser
371 Commissioner Vincent

First Reading

Aye
Aye
Aye
Aye
Aye

Second Reading

Aye
Aye
Aye
Aye
Aye

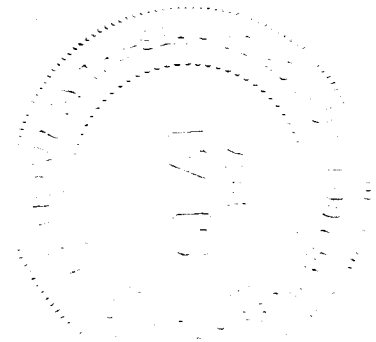
372
373
374 Attest:

375
376 June White
377
378 Town Clerk, June White

379
380 (CORPORATE SEAL)

381
382 Approved as to form:

383
384 Susan L. Trevarthen
385
386 Susan L. Trevarthen, Town Attorney



Ordinance 2021-10

1 **AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-**
2 **THE-SEA, FLORIDA, AMENDING CHAPTER 30 “UNIFIED**
3 **LAND DEVELOPMENT REGULATIONS,” SECTION 30-11,**
4 **“DEFINITIONS” TO DEFINE “TOBACCO**
5 **PARAPHERNALIA STORES;” AMENDING SUBDIVISIONS**
6 **L AND M, B-1-A AND B-1 DISTRICT REGULATIONS, TO**
7 **CHANGE THE LISTS OF PERMITTED AND**
8 **CONDITIONAL USES AND CREATE SUPPLEMENTAL**
9 **REGULATIONS; CREATING SECTION 30-281 TO**
10 **PROVIDE FOR AMORTIZATION OF EXISTING**
11 **TOBACCO PARAPHERNALIA STORES IN THE B-1**
12 **ZONING DISTRICTS; PROVIDING FOR CODIFICATION,**
13 **SEVERABILITY, CONFLICTS, AND FOR AN EFFECTIVE**
14 **DATE**

15
16 **WHEREAS**, the Town of Lauderdale-By-The-Sea (the “Town”) Commission recognizes
17 that changes to the adopted Code of Ordinances are periodically necessary in order to ensure that
18 the Town’s regulations are current and consistent with the Town’s planning and regulatory needs;
19 and

20 **WHEREAS**, the Town Commission has recently discussed the history and the adequacy
21 of the use lists, definitions and processes for the two business zoning districts in the Town,
22 Business (B-1) and Neighborhood Business (B-1-A); and

23 **WHEREAS**, the Town Commission finds that certain uses are listed in the business zoning
24 districts which are not possible to develop, or are not compatible with or suitable for the Town;
25 and

26 **WHEREAS**, during the 2021 Florida Legislative Session, the Legislature adopted Chapter
27 2021-14, Laws of Florida, creating Sections 569.0025 and 569.315 of the Florida Statutes, and
28 preempting the regulation for the marketing, sale, or delivery of, tobacco products and nicotine
29 products to the State, effective October 1, 2021; and

Ordinance 2021-10

30 **WHEREAS**, however, local governments still retain the right to regulate stores selling
31 tobacco paraphernalia or devices commonly related to the use of any tobacco product, drug, or
32 narcotic, as further defined herein (“tobacco paraphernalia stores”); and

33 **WHEREAS**, there has been a recent proliferation of tobacco paraphernalia stores, as
34 defined herein, in the Town’s B-1 business zoning district; and

35 **WHEREAS**, the Town Commission finds that tobacco paraphernalia stores previously
36 allowed to locate within the Town as specialty shops should no longer be located in the B-1 and
37 B-1-A zoning districts; and

38 **WHEREAS**, it is the intent of the Town Commission that nonconforming tobacco
39 paraphernalia stores in the B-1 zoning districts be permitted to continue to exist for one year (or
40 longer based upon an individual showing) from the effective date of this Ordinance, unless
41 terminated earlier for any reason; and

42 **WHEREAS**, to provide for the orderly, planned future development of the Town, and
43 enhance the character and aesthetics of the Town, the Town Commission finds that additional
44 changes to the list of permitted and conditional uses in the B-1 and B-1-A zoning districts, and
45 related regulations, are necessary to reflect the Town’s current vision for its downtown; and

46 **WHEREAS**, the Planning and Zoning Board, sitting as the Local Planning Agency, has
47 reviewed the contents of this Ordinance at a duly noticed public hearing on September 15, 2021,
48 and recommended the amendments be approved; and

49 **WHEREAS**, the Town Commission conducted first and second reading of this Ordinance at
50 duly noticed public hearings, as required by law, and after having received input from and
51 participation by interested members of the public and staff, the Town Commission has determined

Ordinance 2021-10

that this Ordinance is consistent with the Town's Comprehensive Plan and in the best interest of the Town, its residents, and its visitors.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, THAT¹:

SECTION 1. Recitals. The preceding "Whereas" clauses are ratified and incorporated as the legislative intent of this Ordinance.

SECTION 2. Code Amended. Chapter 30 "Unified Land Development Regulations," is hereby amended as follows:

Chapter 30 - UNIFIED LAND DEVELOPMENT REGULATIONS

ARTICLE I. - IN GENERAL

* * *

Sec. 30-11. - Definitions.

* * *

(2) *Terms defined.*

* * *

Tobacco paraphernalia. Paraphernalia commonly related to the use of any tobacco product, drug, or narcotic includes, but is not limited to:

- a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic smoking pipes, with or without screens, permanent screens, or punctured metal bowls.
- b. Water pipes.
- c. Carburetion tubes and devices.
- d. Chamber pipes.
- e. Carburetor pipes.
- f. Air-driven pipes.
- g. Chillums.
- h. Bongs.
- i. Ice pipes or chillers

¹ Additions to existing text are shown in underline. Deletions are shown in ~~striketrough~~.

Ordinance 2021-10

This definition shall not be interpreted to include a nicotine dispensing device, as defined in Florida Statutes, Section 569.31, as may be amended from time to time.

Tobacco paraphernalia store. Any retail store that sells, offers for rent or sale, or exhibits or displays, tobacco paraphernalia that totals more than five percent of its inventory, measured by either (i) the number of items or (ii) the square footage of the store where inventory is displayed or accessible to customers.

* * *

ARTICLE V. – ZONING

* * *

DIVISION 2. – DISTRICTS

* * *

Subdivision L. - B-1-A District Regulations.

Sec. 30-261. - B-1-A district—Business.

(a) *B-1-A uses permitted.*

(1) *Permitted uses.* No building or premises shall be used and no building with the usual accessories shall be erected or altered other than a building or premises arranged, intended, or designed for any of the following uses, not to exceed 10,000 square feet in gross floor area:

- a. Antiques store,
- b. Art galleries,
- c. Arts and crafts supply store,
- d. Automobile rental or leasing agencies (no outdoor display),
- e. Bait and tackle shop,
- f. Bakery,
- g. Bank,
- h. ~~Beauty schools, b~~ Barber shops and hair salons,
- i. Bicycle rental shop with no outside storage,
- j. Book store,
- k. Business and professional employment agency,
- l. Camera and photographic supply store,
- m. Card and stationery store,
- n. Catering businesses,
- o. Church and place of worship,
- p. Clothing store,
- q. Coin-operated dry cleaning and laundry and/or pickup station,
- r. Community theaters, dinner theaters and cultural centers,

Ordinance 2021-10

126 s.Computer/software store,
 127 t.Consignment store,
 128 u.Cooking schools,
 129 v.Copy center,
 130 w.Courier service,
 131 x.Delicatessen,
 132 y.~~Dental laboratory~~,Reserved,
 133 z.Drug store/pharmacy (no on-site prescription writing for controlled substances
 134 identified in Schedule II, III, or IV in F.S. §§ 893.03, 893.035, or 893.0355),
 135 aa.Fabric/needlework/yarn shop,
 136 bb.Fishing pier,
 137 cc.Florist shop,
 138 dd.Formal wear sales and rental,
 139 ee.Fruit and produce store,
 140 ff.Furniture and home furnishings,
 141 gg.Gift shop,
 142 hh.Government administration,
 143 ii.Grocery/food store/supermarket,
 144 jj.Hardware store,
 145 kk.Health and fitness center,
 146 ll.Household appliances store,
 147 mm.Ice cream/yogurt store,
 148 nn.Interior decorator,
 149 oo.Jewelry store,
 150 pp.Library branch,
 151 qq.Linen/bath/bedding store,
 152 rr.Luggage/handbag/leather goods store,
 153 ss.Mail/postage/fax service,
 154 tt.Marine parts and supplies store,
 155 uu.~~Market~~,Reserved
 156 vv.Massage therapist (licensed therapist to be on premises at all times of operation; see
 157 subsection (j) below for supplemental regulations),
 158 ww.Meat and poultry store,
 159 xx.Medical supplies sales and medical/dental office,
 160 yy.Motorized scooter sales or moped sales and rentals (indoor only, outdoor sales, storage
 161 or display prohibited),
 162 zz.Museum,
 163 aaa.Music/musical instrument store, Tapes/videos/music CD/vinyl record stores
 164 bbb.Office building,
 165 ccc.Optical store,
 166 ddd.~~Party supply store~~,Reserved,
 167 eee.Photographic studio,
 168 fff.Police and fire substation,
 169 ggg.Retail electronic sales and repair,
 170 hhh.Restaurant, which may also include the following accessory uses:
 171

Ordinance 2021-10

- 172 1.Sidewalk cafés which would be appurtenant to, and a part of, a restaurant, subject
 173 to the requirements of chapter 17, article VI, sidewalk cafés.
 174 2.Outside seating for restaurants, on private property other than a sidewalk, that is
 175 accessory to the principal restaurant use and that is not regulated under chapter 17,
 176 article VI, and subject to the regulations set forth in subsection (h), below.
 177 3.Walk-up windows for food and/or beverage service,
 178
 179 iii.Seafood store,
 180 jjj.Shoe sales and repair,
 181 kkk.Shop for marking articles sold at retail on the premises,
 182 ~~lll.Specialty shop,Reserved,~~
 183 mmm.Sporting goods store, including dive shops,
 184 nnn.Studios for artists, photographers, musicians (including recording studios), and
 185 dance,
 186 ~~ooo.Sundries store,Reserved,~~
 187 ppp.Tailor/dressmaking store, direct to the customer,
 188 ~~qqq.Tapes/videos/music CD stores,Reserved,~~
 189 rrr.Tool rental (small tools and equipment, indoor display only),
 190 sss.Toy/game store,
 191 ~~ttt.Trade/business school,Reserved,~~
 192 uuu.Travel agency,
 193 vvv.Veterinarian or animal grooming with all activities enclosed within the building with
 194 no outside noise,
 195 www.Watch and jewelry repair, and
 196
 197 xxx.*Uses not listed.*

- 199 1. Any use not covered by the above list may be authorized in the B-1-A district by
 200 the Town Manager or designee only if the proposed use is similar to a listed use;
 201 otherwise, an amendment to this chapter is required.
 202 2. The Town Manager or designee shall consult with the Town Commission on any
 203 proposal to find that a use is similar, prior to authorizing such use in the B-1-A
 204 district.
 205 3. Whenever a use is approved as a similar use, the Town Manager shall report such
 206 finding in the written Town Manager report at a subsequent Town Commission
 207 meeting.
 208
 209 (2) *Conditional uses.* The following conditional uses may be permitted upon approval
 210 pursuant to the conditional use procedures of this Code:
 211
 212 a.Bicycle taxi (no outside storage or display).
 213 ~~b.Car wash/outdoor hand wash,Reserved,~~
 214 c.Charter and sightseeing boat.
 215 d.Child and adult day-care centers.
 216 e.Convenience store, subject to the requirements as set forth in subsection (i), below.

Ordinance 2021-10

f. Drive-through services that are accessory to a primary use, provided that any approval of the drive-through use by the Town Commission shall specifically establish the location and traffic flow pattern of the drive-through.

g. Dry cleaner.

h. Mixed use, subject to the requirements as set forth in subsection (i) below.

i. "Paid private parking" on parcels with a primary use, excluding standalone parking lots, subject to the requirements as set forth in subsection (i) below.

j. Parking garage.

k. Permitted use that exceeds 10,000 square feet in gross floor area.

l. ~~Pet store.~~ Reserved.

m. Pool supply store.

n. Outside storage of propane tank cabinets for the storage, sale or rental of propane tanks.

o. Water craft sales and rental (new or used).

p. *Conditional uses not listed.*

1. Permission to apply for conditional uses not covered by the above list in the B-1-A district may be granted by the Town Manager or designee only if the proposed conditional use is similar to a listed conditional use; otherwise, an amendment to this chapter is required.

2. The Town Manager or designee shall consult with the Town Commission on any proposal to determine that a conditional use is similar to those listed, prior to authorizing the filing of an application to seek approval of that conditional use in the B-1-A district.

3. Whenever a use is approved as a similar use, the Town Manager shall report such finding in the written Town Manager report at a subsequent Town Commission meeting.

4. Approval of a conditional use shall also be subject to the requirements for conditional use review as set forth in section 30-126 of the Town Code.

* * *

(j) *Massage therapists – supplemental regulations.*

(1) *Massage therapist certificate required.* No establishment shall offer or provide massage services without obtaining a massage therapist certificate issued pursuant to this subsection (j), and maintaining such certificate. All persons providing massage services at the establishment shall be duly licensed under F.S. §480.041 et seq.; approved as a massage therapy apprentice as defined in F.S. §480.033, or possess another valid health care practitioner license duly issued by the Florida Department of Health pursuant to F.S. Ch. 456.

a. *Application for businesses.* All establishments providing massage services as defined within this Code shall apply for a massage therapist certificate from the Town. Any establishment applying for a massage therapist certificate shall include the following information on a form provided by the Town:

Ordinance 2021-10

1. Proof of valid Florida Board of Massage Therapy license issued to the establishment in accordance with F.S. §480.043 et seq.; and

2. Proof of valid Florida Board of Massage Therapy or other state health care practitioner license for all personnel providing massage services at the establishment, in accordance with F.S. §480.041 et seq. or F.S. Ch. 456; or proof of Florida Board of Massage apprenticeship approval as defined in F.S. §480.033, if applicable; and

3. Proof of valid Florida driver's license or other government-issued identification for every person and massage therapist working at the establishment.

b. Term of massage therapist certificate for businesses. Once issued, a massage therapist certificate shall remain valid for a period of one year, or until there is a change of the use, ownership, name, location of the establishment from that specified on the approved certificate, or until such time that the Town-issued Business Tax Receipt (BTR) expires.

1. The operator of any massage establishment that holds a certificate shall submit an application to renew the certificate within 30 days prior to the expiration date of the current certificate in order to continue operating.

2. When there is a change of the use, ownership, business name, or establishment name, or establishment location from that specified on the approved certificate, a new certificate shall be required.

c. Requirement to supply updated information. Annually at the time of issuance of business tax receipt during the term of a massage therapist certificate, each establishment holding a certificate shall supply the Town with the following information on a form and in the manner prescribed by the Town:

1. Revocation, expiration, or change to the status of the state licenses described in sub-subsection a. above; and

2. Updated state driver's license or other government-issued identification information for all personnel providing massage services at the establishment, including new staff members.

3. Proof of valid licensure of any new employees within seven days of employment, regardless of monthly report due date.

d. Display of certificate. Establishments shall display the valid certificate in a place easily visible to any person entering the establishment and shall maintain proof of valid licenses and identification of each staff member on the premises of the establishment at all times during operation.

Ordinance 2021-10

e. Revocation.

1. Grounds for revocation. The following shall be nonexclusive grounds for revocation of a massage therapist certificate:

i. Noncompliance with any provision of this subsection (j); or

ii. Noncompliance with Chapter 480 of the Florida Statutes; or

iii. The Town's determination that issuance of a certificate was granted based upon false information, misrepresentation of fact, or mistake of fact by the representative of the establishment holding the certificate, or his or her agent; or

iv. Failure to remain "in good standing" as defined herein.

2. Revocation procedure. In the event the Town determines there are grounds for revocation, the Town shall schedule a hearing before the Town Manager and notify the certificate holder in writing and the grounds upon which such action is proposed, no less than seven days prior to the date of the hearing. In the event of an emergency the hearing may be held no less than 24 hours after notice to the certificate holder. Notice shall be deemed given when a notice has been properly addressed to the address as provided by the certificate holder on the certificate application, stamped and deposited in a U.S. Postal depository or collected by an employee of the U.S. Postal Service. Emergency notice shall be attempted by all available avenues including hand delivery. Proof shall be by clear and convincing evidence.

The Town Manager may:

i. Find no violation;

ii. Temporarily suspend the certificate for a time period as determined appropriate by the Town Manager;

iii. Revoke the certificate for the remainder of its term.

iv. Depending on the facts and circumstances, the Town Manager may suspend or revoke a license immediately subject to appeal as provided herein. Such appeal shall not stay the revocation or other action of the Town Manager.

A finding of violation twice within a one-year period shall require revocation of the license for the remainder of its term. Nothing in this subsection (j) shall take away other enforcement powers of the Town, Special Magistrate or any other agency provided by the Code or statute.

Ordinance 2021-10

f. Exemptions. Massage services in state-licensed hospitals and hospices, or those massages provided by a massage therapist acting under the direction of a licensed medical provider or practitioner, shall be exempt from the massage therapist certificate requirements of this subsection (j).

(2) Penalties. Violations of this subsection (j) shall be punishable in a manner to be prescribed by the Town and may result in the revocation of a massage therapist certificate, the imposition of fines, or any other penalty applicable pursuant to any other law.

(3) "In Good Standing" defined. For purposes of this subsection (j), the term "in good standing" means:

a. That the applicant's state license is current;

b. That the applicant's state license will not expire during the fiscal year for which the massage therapy services certificate is issued (or if such the case, that a renewal for the state license has been filed);

c. That there are no pending Department of Health Administrative complaints against the applicant which seek permanent revocation or suspension of the applicant's state license;

d. That there are no pending Department of Health Administration complaints against the applicant's state license seeking a restriction of practice or placement on probation (the Town may disregard this evidence if it receives a resolution from the Board of Massage Therapy, or a letter from the Executive Director of the Department of Health indicating that the remedy sought will not preclude the applicant from pursuing the massage therapy services certificate); and

e. That the applicant is not being prosecuted, and does not have criminal charges pending at the state or federal prosecutor, at the time the Town must approve or deny the application for the massage therapist certificate.

* * *

Subdivision M. - B-1 District Regulations.

Sec. 30-271. - B-1 district—Business.

(a) *B-1 uses permitted.*

(1) *Permitted uses.* No building or premises shall be used and no building with the usual accessories shall be erected or altered other than a building or premises arranged, intended, or designed for any of the following uses, not to exceed 10,000 square feet in gross floor area, except for waterfront hotel uses:

Ordinance 2021-10

358
359 a.Antiques store,
360 b.Art galleries,
361 c.Arts and crafts supply store,
362 d.Automobile rental or leasing agencies (no outdoor display),
363 e.Bait and tackle shop,
364 f.Bakery,
365 g.Bank,
366 h.~~Beauty schools,~~ bBarber shops and hair salons,
367 i.Bicycle rental shop with no outside storage,
368 j.Book store,
369 k.Business and professional employment agency,
370 l.Camera and photographic supply store,
371 m.Card and stationery store,
372 n.Catering businesses,
373 o.Church and place of worship,
374 p.Clothing store,
375 q.Coin-operated dry cleaning and laundry and/or pickup station,
376 r.Community theaters, dinner theaters and cultural centers,
377 s.Computer/software store,
378 t.Consignment store,
379 u.Cooking schools,
380 v.Copy center,
381 w.Courier service,
382 x.Delicatessen,
383 y.Dental laboratory,
384 z.Drug store/pharmacy (no on-site prescription writing for controlled substances
385 identified in Schedule II, III, or IV in F.S. §§ 893.03, 893.035, or 893.0355),
386 aa.Fabric/needlework/yarn shop,
387 bb.Fishing pier,
388 cc.Florist shop,
389 dd.Formal wear sales and rental,
390 ee.Fruit and produce store,
391 ff.Furniture and home furnishings,
392 gg.Gift shop,
393 hh.Government administration,
394 ii.Grocery/food store/supermarket,
395 jj.Hardware store,
396 kk.Health and fitness center,
397 ll.Household appliances store,
398 mm.Ice cream/yogurt store,
399 nn.Interior decorator,
400 oo.Jewelry store,
401 pp.Library branch,
402 qq.Linen/bath/bedding store,
403 rr.Luggage/handbag/leather goods store,

Ordinance 2021-10

ss. Mail/postage/fax service,
 tt. Marine parts and supplies store,
 uu. ~~Market, Reserved,~~
 vv. Massage therapist (licensed therapist to be on premises at all times of operation; see subsection (j) below for supplemental regulations),
 ww. Meat and poultry store,
 xx. Medical supplies sales, medical/dental office,
 yy. Motorized scooter sales or moped sales and rentals (indoor only, outdoor sales, storage or display prohibited),
 zz. Museum,
 aaa. Music/musical instrument store, Tapes/videos/music CD/vinyl record stores
 bbb. Office building,
 ccc. Optical store,
 ddd. ~~Party supply store, Reserved,~~
 eee. Photographic studio,
 fff. Police and fire substation,
 ggg. Retail electronic sales and repair,
 hhh. Restaurant, which may also include the following accessory uses:

1. Sidewalk cafés which would be appurtenant to, and a part of, a restaurant, subject to the requirements of chapter 17, article VI, sidewalk cafés.
2. Outside seating for restaurants, on private property other than a sidewalk, that is accessory to the principal restaurant use and that is not regulated under chapter 17, article VI, and subject to the regulations set forth in subsection (h), below.
3. Walk-up windows for food and/or beverage service,

iii. Seafood store,
 jjj. Shoe sales and repair,
 kkk. Shop for marking articles sold at retail on the premises,
 lll. ~~Specialty shop, Reserved,~~
 mmm. Sporting goods store, including dive shops,
 nnn. Studios for artists, photographers, musicians (including recording studios), and dance,
 ooo. ~~Sundries store, Reserved,~~
 ppp. Tailor/dressmaking store, direct to the customer,
 qqq. ~~Tapes/videos/music CD stores, Reserved,~~
 rrr. Tool rental (small tools and equipment, indoor display only),
 sss. Toy/game store,
 ttt. ~~Trade/business school, Reserved,~~
 uuu. Travel agency,
 vvv. Veterinarian or animal grooming with all activities enclosed within the building with no outside noise,
 www. Watch and jewelry repair, ~~and~~
 xxx. Cigar store (not meeting the definition of tobacco paraphernalia store, no customer service area).
 yyy. Uses not listed.

Ordinance 2021-10

- 450 1. Any use not covered by the above list may be authorized in the B-1-A district by
451 the Town Manager or designee only if the proposed use is similar to a listed use;
452 otherwise, an amendment to this chapter is required.
- 453 2. The Town Manager or designee shall consult with the Town Commission on any
454 proposal to find that a use is similar, prior to authorizing such use in the B-1-A
455 district.
- 456 3. Whenever a use is approved as a similar use, the Town Manager shall report such
457 finding in the written Town Manager report at a subsequent Town Commission
458 meeting.
- 459
- 460 (2) *Conditional uses.* The following conditional uses may be permitted upon approval
461 pursuant to the conditional use procedures of this Code:
- 462 a. Bicycle taxi (no outside storage or display).
463 b. ~~Call center, subject to the requirements as set forth in subsection (i), below.~~ Reserved.
464 c. ~~Car wash/outdoor hand wash.~~ Reserved.
465 d. Charter and sightseeing boat.
466 e. Child and adult day-care centers.
467 f. Convenience store, subject to the requirements as set forth in subsection (i), below.
468 g. Drive-through services that are accessory to a primary use, provided that any approval
469 of the drive-through use by the Town Commission shall specifically establish the location
470 and traffic flow pattern of the drive-through.
471 h. Dry cleaner.
472 i. Marina, subject to the requirements as set forth in subsection (i) below.
473 j. Mixed use, subject to the requirements as set forth in subsection (i) below.
474 k. "Paid private parking" on parcels with a primary use, excluding standalone parking lots,
475 subject to the requirements as set forth in subsection (i) below.
476 l. Parking garage.
477 m. Permitted use that exceeds 10,000 square feet in gross floor area.
478 n. Pet store. (see subsection (k) below for supplemental regulations).
479 o. Pool supply store.
480 p. Outside storage of propane tank cabinets for the storage, sale or rental of propane tanks.
481 q. Water craft sales and rental (new or used).
482 r. Waterfront hotel.
- 483
- 484 s. *Conditional uses not listed.*
- 485
- 486 1. Permission to apply for conditional uses not covered by the above list in the B-1
487 district may be granted by the Town Manager or designee only if the proposed
488 conditional use is similar to a listed conditional use; otherwise, an amendment to this
489 chapter is required.
- 490 2. The Town Manager or designee shall consult with the Town Commission on any
491 proposal to determine that a conditional use is similar to those listed, prior to
492 authorizing the filing of an application to seek approval of that conditional use in the
493 B-1 district.

Ordinance 2021-10

3. Whenever a use is approved as a similar use, the Town Manager shall report such finding in the written Town Manager report at a subsequent Town Commission meeting.

4. Approval of a conditional use shall also be subject to the requirements for conditional use review as set forth in section 30-126 of the Town Code.

* * *

(j) *Massage therapists – supplemental regulations.*

(1) *Massage therapist certificate required.* No establishment shall offer or provide massage services without obtaining a massage therapist certificate issued pursuant to this subsection (j), and maintaining such certificate. All persons providing massage services at the establishment shall be duly licensed under F.S. §480.041 et seq.; approved as a massage therapy apprentice as defined in F.S. §480.033, or possess another valid health care practitioner license duly issued by the Florida Department of Health pursuant to F.S. Ch. 456.

a. *Application for businesses.* All establishments providing massage services as defined within this Code shall apply for a massage therapist certificate from the Town. Any establishment applying for a massage therapist certificate shall include the following information on a form provided by the Town:

1. Proof of valid Florida Board of Massage Therapy license issued to the establishment in accordance with F.S. §480.043 et seq.; and

2. Proof of valid Florida Board of Massage Therapy or other state health care practitioner license for all personnel providing massage services at the establishment, in accordance with F.S. §480.041 et seq. or F.S. Ch. 456; or proof of Florida Board of Massage apprenticeship approval as defined in F.S. §480.033, if applicable; and

3. Proof of valid Florida driver's license or other government-issued identification for every person and massage therapist working at the establishment.

b. *Term of massage therapist certificate for businesses.* Once issued, a massage therapist certificate shall remain valid for a period of one year, or until there is a change of the use, ownership, name, location of the establishment from that specified on the approved certificate, or until such time that the Town-issued Business Tax Receipt (BTR) expires.

1. The operator of any massage establishment that holds a certificate shall submit an application to renew the certificate within 30 days prior to the expiration date of the current certificate in order to continue operating.

Ordinance 2021-10

2. When there is a change of the use, ownership, business name, or establishment name, or establishment location from that specified on the approved certificate, a new certificate shall be required.

c. Requirement to supply updated information. In the first week of each quarter during the term of a massage therapist certificate, each establishment holding a certificate shall supply the Town with the following information on a form and in the manner prescribed by the Town:

1. Revocation, expiration, or change to the status of the state licenses described in sub-subsection a. above; and

2. Updated state driver's license or other government-issued identification information for all personnel providing massage services at the establishment, including new staff members.

3. Proof of valid licensure of any new employees within seven days of employment, regardless of monthly report due date.

d. Display of certificate. Establishments shall display the valid certificate in a place easily visible to any person entering the establishment and shall maintain proof of valid licenses and identification of each staff member on the premises of the establishment at all times during operation.

e. Revocation.

1. Grounds for revocation. The following shall be nonexclusive grounds for revocation of a massage therapist certificate:

i. Noncompliance with any provision of this subsection (j); or

ii. Noncompliance with Chapter 480 of the Florida Statutes; or

iii. The Town's determination that issuance of a certificate was granted based upon false information, misrepresentation of fact, or mistake of fact by the representative of the establishment holding the certificate, or his or her agent; or

iv. Failure to remain "in good standing" as defined herein.

2. Revocation procedure. In the event the Town determines there are grounds for revocation, the Town shall schedule a hearing before the Town Manager and notify the certificate holder in writing and the grounds upon which such action is proposed, no less than seven days prior to the date of the hearing. In the event of an emergency the hearing may be held no less than 24 hours after notice to the certificate holder. Notice

Ordinance 2021-10

shall be deemed given when a notice has been properly addressed to the address as provided by the certificate holder on the certificate application, stamped and deposited in a U.S. Postal depository or collected by an employee of the U.S. Postal Service. Emergency notice shall be attempted by all available avenues including hand delivery. Proof shall be by clear and convincing evidence.

The Town Manager may:

i. Find no violation;

ii. Temporarily suspend the certificate for a time period as determined appropriate by the Town Manager;

iii. Revoke the certificate for the remainder of its term.

iv. Depending on the facts and circumstances, the Town Manager may suspend or revoke a license immediately subject to appeal as provided herein. Such appeal shall not stay the revocation or other action of the Town Manager.

A finding of violation twice within a one-year period shall require revocation of the license for the remainder of its term. Nothing in this subsection (j) shall take away other enforcement powers of the Town, Special Magistrate or any other agency provided by the Code or statute.

f. Exemptions. Massage services in state-licensed hospitals and hospices, or those massages provided by a massage therapist acting under the direction of a licensed medical provider or practitioner, shall be exempt from the massage therapist certificate requirements of this subsection (j).

(2) Penalties. Violations of this subsection (j) shall be punishable in a manner to be prescribed by the Town and may result in the revocation or suspension of a massage therapist certificate, the imposition of fines, or any other penalty applicable pursuant to any other law.

(3) "In Good Standing" defined. For purposes of this subsection (j), the term "in good standing" means:

a. That the applicant's state license is current;

b. That the applicant's state license will not expire during the fiscal year for which the massage therapy services certificate is issued (or if such the case, that a renewal for the state license has been filed);

Ordinance 2021-10

c. That there are no pending Department of Health Administrative complaints against the applicant which seek permanent revocation or suspension of the applicant's state license;

d. That there are no pending Department of Health Administration complaints against the applicant's state license seeking a restriction of practice or placement on probation (the Town may disregard this evidence if it receives a resolution from the Board of Massage Therapy, or a letter from the Executive Director of the Department of Health indicating that the remedy sought will not preclude the applicant from pursuing the massage therapy services certificate); and

e. That the applicant is not being prosecuted, and does not have criminal charges pending at the state or federal prosecutor, at the time the Town must approve or deny the application for the massage therapist certificate.

(k) Pet stores, supplemental regulations.

(1) Definitions.

Animal care facility means an animal control center or animal shelter, maintained by or under contract with any state, county, or municipality, whose mission and practice is, in whole, or significant part, the rescue and placement of animals in permanent homes or rescue organizations, and which does not obtain animals from a breeder or broker for payment or compensation.

Animal rescue organization means any not-for-profit organization which has tax-exempt status under Section 501(c)(3) of the United States Internal Revenue Code, whose mission and practice is, in whole or in significant part, the rescue, sheltering and placement of animals in permanent homes or whose primary purpose is the prevention of cruelty to animals. This term does not include an entity that breeds or brokers animals or obtains animals from breeders or brokers for payment or compensation.

Certificate of source means a document from the source and declaring the source of origin of a dog or cat showcased on the premises. A certificate of source shall include at a minimum: (i) a brief description of the dog or cat, the name, address, telephone number, and e-mail address of the source of the dog or cat; and (ii) the pet store's certification of the accuracy of the certificate.

Pet store means a retail establishment where dogs or cats are sold, exchanged, bartered, offered for sale or adoption, advertised for sale, auctioned, given away or otherwise disposed of as pet animals to the general public at retail, including by appointment. Such definition shall not include an animal care facility or animal rescue organization, as defined herein.

Showcase means that an animal care facility or animal rescue organization temporarily displays to the public an adoptable dog or cat at a pet store, in order to facilitate the adoption

Ordinance 2021-10

of the dog or cat from that organization or facility. Dogs or cats may only be showcased during the hours of operation of the pet store, and shall be returned to the organization or facility during the hours that the pet store is closed.

(2) *Prohibition.* It is prohibited and unlawful for a pet store to offer, deliver, offer for sale, barter, auction, rent, lease, give away, or otherwise transfer or dispose of a dog or cat in the Town.

(3) *Exception.* Nothing in this section shall prohibit pet stores from collaborating with animal care facilities or animal rescue organizations to offer space for such entities to showcase adoptable dogs or cats, provided the pet store shall not have any ownership interest in the dogs or cats offered for adoption and shall not receive a fee for providing space for the adoption of any of these dogs or cats.

(4) *Certificate of source.* A pet store shall post and maintain in a conspicuous place, on or within three (3) feet of each dog's or cat's kennel, cage or enclosure, a certificate of source for each dog or cat being showcased at a pet store. Falsification of a certificate of source by a pet store, pet store operator, or any other person is hereby declared unlawful.

(5) *Record-keeping.* Pet stores shall maintain records, stating the name, address, telephone number and emails of the animal care facility or animal rescue organization that showcase from which each dog or cat was acquired for one year following the date of acquisition and maintaining a copy of the previous year. These records are subject to inspection by a Town official charged with enforcing these provisions upon request.

(6) *Applicability to existing pet stores.* Any pet store operating in conformance with a Town conditional use approval issued prior to the adoption of this section may continue to operate in accordance with that approval and with all applicable laws. If the pet store ceases operation for more than 60 days or if the conditional use is revoked by the Town or otherwise invalidated, then the pet store shall thereafter conform to the requirements of this section.

(7) *Penalty.* Any person who violates this section is subject to enforcement pursuant to Section 1-12 of this Code.

* * *

Subdivision N. ~~Reserved~~ Amortization of tobacco paraphernalia stores in B-1 zoning districts.

Sec. 30-281. – ~~Reserved~~ Amortization procedures for tobacco paraphernalia stores.

(a) *Definitions.*

(1) *Amortization notice.* Written notice of the commencement of amortization regulations, served by hand delivery or by certified mail, return receipt requested.

Ordinance 2021-10

660 (2) Amortization period. One year after the effective date of this Ordinance.²
661

662 (b) Intent. It is the intent of this Subdivision to recognize that the eventual elimination of existing
663 tobacco paraphernalia stores in the B-1 zoning district that are not in conformity with the
664 provisions of these regulations, in as expeditious a manner as is reasonable, bears as much relation
665 to the health, safety, and welfare of the citizens of the Town as the prohibition of new tobacco
666 paraphernalia stores that would violate these regulations. It is also the intent of this Subdivision
667 to protect private property rights to the extent required by law.

668 (c) Operation during amortization. A nonconforming tobacco paraphernalia store may be
669 continued for the amortization period, and shall be maintained in good condition and conform with
670 the regulations applicable to nonconforming structures in the Town. Such store may not display
671 its inventory of tobacco paraphernalia within 5 feet of any window or glazed area of the front or
672 side façades, but may continue to stock and sell it.

673 (d) Removal. All nonconforming tobacco paraphernalia stores in existence upon the effective date
674 of this Ordinance,³ and which previously conformed to all legal requirements but are made
675 nonconforming by the provisions of these regulations, shall be removed prior to the end of the
676 amortization period.

677 (e) Procedure for enforcement of amortization requirements. Prior to the Town enforcing the
678 amortization period against any tobacco paraphernalia store, it shall be the responsibility of the
679 Town Manager or designee to:

680 (1) make a record of all nonconforming tobacco paraphernalia stores in Town that are subject
681 to the amortization requirement, and

682 (2) serve the amortization notice on the owners of such stores and upon the property owner.

683 The amortization period shall apply to tobacco paraphernalia stores that receive an amortization
684 notice from the Town, in the manner described in that notice.

685 (f) Extension of amortization period.

686 (1) The Town Manager or designee, in consultation with the Town Attorney, may extend the
687 amortization period upon a showing of economic hardship to the owner of a tobacco
688 paraphernalia store. Alternatively, the Town Manager may choose to bring such an extension
689 request to the Town Commission for approval.

690 (2) An owner of a tobacco paraphernalia store who asserts that a longer amortization period
691 is necessary to amortize its investment shall file an application for extension with the office
692 of the Town Manager within 30 days of the date of the amortization letter. The application
693 shall be on a form provided by the office of the Town Manager, and shall include a statement
694 setting forth the investment in the nonconforming tobacco paraphernalia store, the date of
695 approval, and the cost and date of the most recent renovation.

696 (3) An extension of the amortization period shall be granted if the Town Manager or
697 designee, in consultation with the Town Attorney, or the Town Commission if it is referred
698 the decision, finds that the amortization period is unreasonable for that tobacco paraphernalia

² Codifier to substitute the date that is one year after the effective date of this Ordinance.

³ Codifier to substitute the effective date of this Ordinance.

Ordinance 2021-10

store at issue because it is too short to allow amortization of its investment in accordance with applicable caselaw.

(4) The Town Manager or designee's decision may be appealed to the Town Commission by the owner of a tobacco paraphernalia store within 30 days of the determination.

* * *

SECTION 3. Codification. This Ordinance shall be codified in accordance with the foregoing. It is the intention of the Town Commission that the provisions of this Ordinance shall become and be made a part of the Town of Lauderdale-By-The-Sea Code of Ordinances; and that the sections of this Ordinance may be renumbered or re-lettered and the word "ordinance" may be changed to "section," "article" or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 4. Severability. If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION 5. Conflicting Ordinances. All prior ordinances or resolutions, or parts thereof, in conflict herewith are hereby repealed to the extent of said conflict.

SECTION 6. Effective Date. This Ordinance shall be in full force and effect immediately upon its passage on second reading.

Passed on the first reading, this ____ day of _____, 2021.

Passed and adopted on the second reading, this ____ day of _____, 2021.

MAYOR CHRIS VINCENT

	First Reading	Second Reading
Mayor Vincent	_____	_____
Vice-Mayor Oldaker	_____	_____

Ordinance 2021-XX

728 Commissioner Sokolow
729 Commissioner Strauss
730 Commissioner Malkoon

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733 ATTEST:

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Tedra Allen, Town Clerk

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740 APPROVED AS TO FORM:

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744 _____
Susan L. Trevarthen, Town Attorney