



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

Planning and Zoning Board

Planning and Zoning Board

Wednesday, September 1, 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. JULY 7, 2021 PLANNING AND ZONING BOARD MINUTES
[PZ 2021 07.07.21 \(JULY\) - Minutes \(Non Approved\).pdf](#)

4. PUBLIC COMMENTS

5. NEW BUSINESS

- 5.a. ORDINANCE 2021-08 : AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 12 "LICENSES," ARTICLE I "BUSINESS TAXES," SECTION 12-24, "HOME OCCUPATIONS," TO MODIFY REGULATIONS TO CONFORM TO STATE LAW; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND FOR AN EFFECTIVE DATE
[P and Z Board Agenda Memo for Home Occupations Ordinance 8.20.21-3J67544-9.1.21.pdf](#)
[Ex1- Ordinance Amending Home Occupations Section 12-24 8.27.21.pdf](#)
[Ex 2- Laws of Florida 2021-202 \(HB 403\) highlighted.pdf](#)
- 5.b. Ordinance 2021-09 AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 30 "UNIFIED LAND DEVELOPMENT REGULATIONS," ARTICLE I, "IN GENERAL," SECTION 30-11 "DEFINITIONS;" AMENDING ARTICLE V "ZONING," SECTION 30-241, "RM-25 DISTRICT" "APARTMENTS AND LODGING," TO MODIFY CONDITIONAL USE REGULATIONS SOUTH OF PINE AVENUE AND CREATE PROHIBITED USE REGULATIONS ON EL MAR DRIVE; AMENDING SECTION 30-242, "RM-25 DISTRICT" "REGULATIONS FOR THE REDEVELOPMENT OF EXISTING LOTS OF 60 FEET IN WIDTH OR LESS IN THE RM-25 DISTRICTS SOUTH OF PINE AVENUE" TO MODIFY REQUIREMENTS; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND FOR AN EFFECTIVE DATE
[Staff Memo RM-25 St edits LC JC Edits 4PM st 630.pdf](#)
[EX 1- Ordinance Amending RM-25 8.18.21 draft \(005\).pdf](#)
[Ex 2- FINAL Minutes 2021-04-13 - Regular.pdf](#)
[Ex 3- FINAL-Minutes 2021-04-27 - Regular.pdf](#)
- 5.c. ORDINANCE 2021-11 : AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 30 "UNIFIED LAND DEVELOPMENT REGULATIONS," ARTICLE V "ZONING," TO CREATE SECTION 30-114, "CITIZEN PARTICIPATION PLANS REQUIRED;" PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND FOR AN EFFECTIVE DATE
[P and Z Board Agenda Memo for Citizen Participation Ordinance 8.25.21-9.1.21.pdf](#)
[Ex 1- ORD 2021-11 Ordinance for Citizen Participation Plan and Report 8.25.21.pdf](#)

6. OLD BUSINESS

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.

NON APPROVED
TOWN OF LAUDERDALE-BY-THE SEA
PLANNING AND ZONING BOARD MEETING MINUTES
LIVE STREAMED FROM JARVIS HALL
Wednesday, July 7, 2021

1. CALL TO ORDER

Chair David Chanon 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 6:04PM.

ROLL CALL

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

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 – June 2, 2021

Discussion ensued about the presentation of the Development Services Report at the June Meeting and Acting Development Services Director Jhanelle Campbell would bring back information regarding her presentation of the report at the next meeting. Without objection, the Board unanimously deferred voting on the June 2nd minutes until the next meeting in August.

4. PUBLIC COMMENTS N/A

5. TOWN PLANNER REPORT N/A

6. NEW BUSINESS

a. REQUEST – 2021-CU-01

Pursuant to the Town Code Section 30-126, Conditional Uses Review, the Applicant has requested Level 2 Conditional Use approval to construct a single-family dwelling unit in the RM-25 zoning district. ADDRESS: 4112 EL MAR DRIVE

Planner Susan Levin gave a PowerPoint presentation explaining that the applicant, David Staudacher, has submitted a conditional use application because a conditional use was required in order to construct a single-family dwelling in the RM-25 zoning district. The location of the property in the RM-25 zoning district was 4112 El Mar Drive. She showed the plans of the house explaining each floor and she also showed elevations and renderings. The proposed structure met all setback and height requirements. She explained about the specific criteria in Section 30-126 of the Town Code for approval of the Conditional Use. Conditional criteria had to be met by the applicant. She said that the applicant has provided responses which were in the Board Packet. Staff's recommendation was to approve the conditional use application. The next step would be to go before the Town Commission at their July 27, 2021 Meeting. Chair Chanon asked about side setbacks. Ms. Levin explained about the required view corridor because it was on El

Mar Drive. Then she said one foot for every ten feet of length of the building making the view corridor setback 11½ feet at ground level. Ms. Levin then explained the additional setbacks for the upper levels of the building. Wayne Dillistin asked if this was for a switch of use of the property and the planner explained that a conditional use was required to construct a single-family home in the RM-25 zoning district. She spoke about the conditional use criteria. She talked about the proposed home's design change so that an administrative adjustment was not needed now and was withdrawn. Ms. Leven spoke with Vice Chair Christina Buerosse about compatibility. Town Attorney James White clarified that Staff recommended approval as all criteria were met but emphasized that the Planning and Zoning Board Members must listen to all evidence and testimony presented this evening. The board members must weigh everything offered this evening (e.g., agenda materials, staff report, presentations, etc.) in their decision to recommend approval or denial of the request for the conditional use. As there were no further board questions/comments at this time, the applicant was invited to present.

Attorney Courtney Crush, Crush Law, representing David and Sherri Staudacher, stated that the architect and home builder were also here this evening to answer any questions. She requested to reserve a few minutes later on in the meeting to respond to any public comments that might be raised this evening. A PowerPoint presentation was given and some of the items she spoke about were that the property right now was a vacant lot. Apartment houses and hotels were permitted uses in the RM-25 zoning district. Conditional uses in the RM-25 district located south of Pine Avenue were provided for. She also explained about other conditional uses (e.g., group foster homes, churches, etc.). Tonight's presentation was because the Staudachers were seeking a conditional use in the RM-25 zoning district for a single-family home. There would be no Administrative Adjustments and no Variances. They also met all applicable dimensional requirements of the Code stating how this project met all the criteria for a conditional use. She showed the elevations of the dwelling unit and how the architecture fit into the area. She went over setbacks, step backs, landscaping and the view corridor buffer which she said were all compliant. They were seeking the same permitted use essentially in the RM-25 zoning district but with fewer families living at that location. There would not be signage at this property. With a conditional use approval, this one family could reside in the proposed home. All of Staff's recommendations and conditions were acceptable to the Staudachers. They respectfully request that the Board approve the conditional use application to allow a residential use with one single family residing in the RM-25 zoning district. The Board did not have any questions for Attorney Crush.

The Chair opened up the hearing for public comment. Planning Technician Sydney Ramirez read into the record emails that were all in opposition and the reasons for their opposition to Case Number 2021-CU-01 from Michael and Kimberly Santo, Steven and Louann Goldring, Mary Welsh, Carla Snyder and Leslie Tatum.

Attorney Henry Handler (Weiss, Handler & Cornwell) represented the Sellitti Family Limited Partnership, owner of the boutique hotel, Seaward. He was joined by James Sellitti, representing the owner, and Architect Erik Kocher, Hastings+Chivetta. On behalf of their client, they oppose application 2021-CU-01. A PowerPoint presentation was given and the following were some of the items presented. Mr. Kocher and Mr. Handler shared reasons for not granting the conditional use approval. Mr. Kocher discussed the adverse impact of the architectural site design and character on their client's property and Mr. Handler spoke about the incompatibility of introducing a large, multi-story, single-family residence in the RM-25 zoning district. Per a public records request, this type of request was never made before. Mr. Kocher showed how their renderings demonstrated how the proposed building would look next to what was existing. It was projecting significantly in front of all of the adjacent properties to the north. It was not relating to the other

structures along the beach. Just in height alone, it towered over the adjacent property by almost twenty feet. He felt that shadow studies/light studies should have been part of their submission. This would have pointed out when the hotel's pool would now be entirely in the shade/shadow and when there would be light between the two buildings. He also pointed out the view corridor reduction, if this home was to be built. He felt that there should have been alternate designs submitted that mitigated problems regarding sun, air, light and shade.

Karen Sylvester asked if the Seaward was aware that the property was recently for sale. Mr. Sellitti answered in the affirmative. Ms. Sylvester further questioned the architect about consideration for flipping the floor plan and Stephen Brascaglia, architect for the Staudacher's project, said they were thinking of flipping the building and making it more amenable to the neighbors. It was a design process and they were very open to adjusting it in a favorable way. Chair Chanon asked about the Mid-Century Modern architectural style the Town was focused on and could this style be incorporated. Planner Levin explained why that was not the issue. Acting Development Services Director Campbell clarified that the Town Code did not require that single-family homes were to be Mid-Century Modern in style. She further answered the Chair that if this was a multi-family building, it would go through an architectural review. The statement that there would not be an architectural review process if they moved forward with the conditional use was corrected later on in the meeting that there would be an architectural review process if they moved forward with this conditional use. Mr. Piersante inquired if the architect's statement regarding an alternate plan would satisfy the people for the Seaward. Attorney Crush stated for clarification that the application before the Board this evening was as proposed and in the backup. She thought that what Mr. Brascaglia indicated was the Staudachers were always happy to talk to their neighbors but were not proposing to alter the proposed plan this evening. Tonight's plan was compliant. Mr. Dillistin wanted to know if the proposed property would be homesteaded or would it be a guest home and Vice Chair Christina Buerosse wanted to know if it would be a VRBO (vacation rentals by owner). Attorney Crush answered that it would be the Staudachers' primary home but unsure if it would be homesteaded. Mr. Sellitti answered Mr. Dillistin that the Seaward was not up for sale. Town Attorney James White asked anyone who spoke tonight to identify themselves for the court reporter for the purpose of the record. Vice Chair Christina Buerosse felt that since the building design was very rough on the Seaward, would the Board be able to ask to see another design. Town Attorney James White stated that according to the Code, the Board did not have that ability to mandate another design and the Board was currently left tonight with what was being requested. He informed that the Board did not have the ability to mandate the applicant to come back with a revised architectural plan in this case.

Jim Sellitti was granted time to speak by the Chair. He testified that he was one of the owners of the Seaward Hotel along with his two sisters and his brother. Their parents bought the Seaward back in the '70s. When it started, it was an eight-unit small efficiency motel but then Hurricane Wilma took it down. They renovated it and turned it into four luxury units that they rent. There were numerous clients who come back every year. The presentation by his architect, Erik Kocher, demonstrated the effect this proposed home would have on the Seaward. It would devastate it. He was for progress but objected to someone coming in and taking away from his property which has been in this community for almost fifty years. They pay taxes and bring tourists to this area who support local businesses and restaurants. Tonight's proposal would affect their views, the air, and the light/sunlight. The balconies would not get sun and would severely impact the amount of business they get. They were asking for consideration to the fact that they have been a member of this community for almost fifty years and what this would do to their business would be devastating. He could not understand when you consider a side setback, the Code says anything over 22 feet was required to have an additional setback of one foot for each two feet above twenty-two feet. He could not understand why that was not being taken at ground level but rather being

considered at the twenty-two feet level. This was going to impact the view corridor that the Town Council and the Town have preserved over the years. They were asking the Planning and Zoning Board to deny the conditional use request and consider the impact this was to have on the rest of the community. All of a sudden, El Mar Drive instead of having multi-family units, hotels and motels, could become a residential neighborhood. There was a sidewalk that went down the center of that property and was used since the '70s to gain beach access until recently when it was gated. He thought the Town had a prescriptive easement that would have prevented anything from being built there because there was a walkway. For the Town to now allow a four-story building to be built on that property would be a detriment to the community. He urged the Board to recommend denial of the conditional use.

Attorney Crushing thanked the Chair and the Board for the opportunity to respond to any public input they heard. She said comments about the property and its size were previously discussed. However, she showed an aerial demonstrating that the property was comparably sized to its neighbor to the north. This was a vacant RM-25 property which was listed for \$1,000,000 with zoning and building opportunities for apartments or hotel making it consistent in size to some of the neighbors further up El Mar Drive. The discussion about the compatibility, setbacks and view corridor did not seem to have anything to do with the use. They were before the Board this evening asking that Sherri and Dave Staudacher be allowed to have a single-family residence on this property by approval of a conditional use. From the context site plan, one could see that the property met the current zoning code and provided a more regulated view corridor. The Staudachers met all the criteria set forth in the land development regulations for a building. They were here tonight seeking the conditional use for single family versus apartment home with fewer people, fewer impacts, and less traffic. The building as designed was compliant whether it was a hotel or apartment building and they were seeking to use it as a single-family home. The fact that there may not have been applications before this Board for a single-family home was because the price of beachfront property was dear. The Town put into its Code the opportunity for a single-family home there through a conditional use. This speaks to the Town's character. The RM-25 zoning district was codified consistent with its comprehensive plan. The building was designed to not have any adverse impacts to the neighbors. There was a board member asking about the orientation to the building and the attorney spoke about the original administrative adjustment which seemed consistent with the development pattern along El Mar Drive. She explained about hearing concerns from the neighbor to the north, so they modified their plans and did not need an administrative adjustment and it was withdrawn. They believe that the building design was code compliant and the request to have a single family instead of two or three families met all of the land development criteria. They still plan to reach out to their neighbors and discuss specific context. They urge the Board to recommend approval of the conditional use for a single-family home.

Attorney Henry Handler pointed out that in the application for approval this evening, the architect on behalf of the applicant (Stephen Brascalla) recited code provisions and argued that the application and the proposal including the design shall not adversely impact land use activities and residential areas in the immediate vicinity. Further reciting that the single-family use shall be compatible in terms of alteration of light and air and concluded that the single-family use shall demonstrate proper use of mitigative techniques. The conditional use and site plan shall incorporate mitigative techniques needed to prevent adverse impacts to adjacent land uses and note that no adverse impacts were proposed or anticipated. Attorney Handler said that they believe the application actually failed in that regard. Chair Chanon said that as he interpreted Code, the provisions and the criteria, mitigated techniques, light and air, etc., relative to what was a by right development, he was not sure, in his opinion, if he agreed with the Seaward's attorney's (Henry Handler) assessment. The Chair pointed out that if this was a six-unit building, we would

have all the same objectionable issues which would impact the property to the north. However, with a hotel or apartment building, there would be no approval requirement. The Board had a very specific set of criteria (compatibility, size, comprehensive plan and mitigation techniques) from which to base their approval. He did not feel that it failed on any of those accounts. His biggest challenge was for a required architectural review with this conditional use. He felt the Code failed because sanctioning this conditional use should allow for a required architectural component with this conditional use of a single-family building as it would be a required component with a multi-family building. Acting Development Services Director Campbell informed him that, if a conditional use was approved for this single-family home in the RM-25 zoning district, there would be an architectural review of the single-family home per the Town's Code.

Vice Chair Christina Buerosse inquired about protecting existing properties (like the Seaward) going forward and Mr. Dillistin wanted to know if they could get 25 units on that residential plot. Ms. Campbell said that it was 25 units per acre but to keep in mind that there were setback requirements, parking requirements, and all the other things that go into the feasibility of the project. Karen Sylvester said she felt sorry for the Seaward but what was brought forward today met the criteria. Jim Sellitti was granted speaking time. He said that consideration must be taken for adverse impact, (e.g., alteration of light and sun and air) on the adjoining property when granting a conditional use. Therefore, it did not follow the Code requirements necessary for a conditional use. Chair Chanon said the same negative impacts would affect the Seaward from this exact building whether it was a multi-family building or a single-family building. The only difference would be that the exact building would not need a conditional use as a multi-unit building. The challenge was would these negative impacts affect the Seaward more if they came from the same building used as a single-family home or used as a multi-unit building. We need to take a look at our Code to ensure it was written in a way that we want the Town to feel and to keep the Town's desired characteristics the same. There did not seem to be a tool available to the Board to not approve this conditional use even if we understand there were negative impacts to an established property like the Seaward. This Board was just the recommending body to the Town Commission and maybe they would have more leverage. There was a very clear mandate that this Board had to follow. Mr. Sellitti said that they were here tonight just for the conditional use for a single-family home changing the dynamics of El Mar Drive from multi-family hotels/motels to a single-family residence. One of the criteria to recommend a conditional use was whether or not it affected or altered the light and air to the adjoining property. That, in Mr. Sellitti's opinion, was sufficient to recommend against a conditional use.

Town Attorney James White said opinions could keep going back and forth. In his opinion, it would be best to open up for any questions or concluding remarks from either of the parties and then to conclude the public hearing and enter into a discussion and debate among the board members. If needed, staff and/or those who presented/spoke this evening could be called back for questions. Evidence was presented and staff analyzed and recommended approval of this particular conditional use for this single-family home on this location within the RM-25 zoning district. However, if a board member felt differently from the evidence presented or to what staff said, it was appropriate for the members to discuss it. The Board's decision must be based on competent and substantial evidence from the testimony heard and seen. This won't be an easy decision with all that has to be considered. As no one else wished to speak, the Chair asked for final comments. Attorney Handler said that they were concluded. Attorney Crush just wanted to emphasize that the building itself was compliant, they were seeking a conditional use for a single-family home, and staff evaluated the criteria with respect to the use. The Chair closed public comments and board discussion commenced.

Ron Piersante said that in the future, something would be built next to this house and he wondered if they would come in here saying their light was being blocked. They could come back then changing their tune. Wayne Dillistin wanted to discuss the fact that if this building was being used as a hotel, they would not be in front of this Board requesting a conditional use. Acting Development Services Director Campbell said it would not be in front of this Board for a conditional use application but rather for a site plan application. Chair Chanon felt that the conditional use (single-family building) would not impact adversely beyond what would have been a by right structure (multi-family building) going on the site. Vice Chair Christina Buerosse felt that approving this could create a domino effect on how we would move forward. Chair Chanon felt that we might want to revisit the Code to lessen impacts on adjacent property owners but right now this building met the criteria. Wayne Dillistin said this was a hotel district but it was being changed and flipped. There were designated areas for specific reason and Mr. Dillistin felt that was important to keep them that way and not to keep manipulating things. Chair Chanon felt his biggest concern for a single-family home in this district was noise complaints from residents in a single-family house who were now in a multi-unit district having certain noise levels like traffic. Mr. Dillistin was not for this change and felt that the Town Commission would do what they felt was the best thing to do no matter what the Board recommended.

Town Attorney White said for the record that the Planning and Zoning Board's recommendation and consideration were important to the Town Commission in their decision making process. They may not agree with the recommendation sometime but it was still important to them and they take it into consideration when they make their decisions. Ron Piersante said that when they built the condos north of here, he could remember people complaining about blocking the sun. While there was sympathy, they met the Code and we were still blocking the sunlight when we built. Chair Chanon said that this would always happen until we change the Code or do something about it. The Town Attorney said that each application stood on its own and was reviewed on the conditions and circumstances relevant to the application. Today's agenda item was allowed in the RM-25 zoning district as a conditional use and the intent and purpose of a conditional use were, among other things, if something was worthy of a special consideration of circumstances relative to its impact on the surrounding neighboring properties in the area. There were certain things on the site that could be mitigated to address some of the Board's concerns and issues brought up tonight. Maybe some might think some of the criteria have not been satisfied while others did. Vice Chair Christina Buerosse felt that they did meet all the criteria but she still had concerns about selling vacant lots for a single-family home not in a residential area. She was against that and also wanted to know if this passed, could the homeowners go to Broward County to try to make the public beach behind their home a private beach. The Town Attorney said that there was a distinction in our Code as to what was a public beach and what was property. Karen Sylvester also felt they met Code but was not in favor of a single-family home there but we were not asked to vote on what we want built. As there was nothing further to add, this agenda item was closed.

Karen Sylvester made a motion to recommend approval of 2021-CU-01 to the Town Commission. The motion was seconded by Chair Chanon. The motion carried 4-1 (Wayne Dillistin opposed).

The Chair felt the Board should revisit this or have a workshop to determine whether we even agree with the way the Code was written. Town Attorney James White reminded that this was a recommendation and the item would proceed to the July 27, 2021 Town Commission Meeting at 6:30PM. Karen Sylvester asked if the Town Commission would get notes about our discussions and concerns. Acting Development Services Director Jhanelle Campbell said that it went to the Commission with the minutes and the Staff Report attached to exhibits to the Town Commission Report.

7. OLD BUSINESS

Planning Technician Sydney Ramirez reminded to listen to the video of the June meeting so that at the August P&Z Meeting, the deferred June 2nd minutes could be voted upon. She would send a link.

Town Attorney James White said there were changes on the Board with a new appointment. He asked Staff to circulate a memo he prepared on the Sunshine Law and a PowerPoint presentation out of the Attorney General's Office on Public Records and the Sunshine Law. If there were any questions or concerns, just let him know. He was happy to answer any questions.

8. UPDATES/BOARD MEMBER COMMENT N/A

9. ADJOURNMENT

Ron Piersante made a motion to adjourn at approximately 7:44PM. The motion was seconded by Vice Chair Christina Buerosse. The motion carried 5-0.

Chair David Chanon

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 27, 2021
Meeting Date: September 1, 2021
Project: Ordinance Revising Regulations of Home Occupations

Purpose: To revise the regulations of home occupations (aka home-based businesses) in the Town to conform to a new state statute that partially preempts local regulation.

Explanation:

The Town Commission adopted Section 12-24 governing home occupations in 2006 and obtained voter approval of it later that year based on the advice of the then-Town Attorney that it provided for additional uses that would trigger such a vote under Town Charter Section 7.1(9). Among other things, that section of the Charter requires voter approval when the residential zoning districts are “rezoned for any other use whatsoever”.

The Florida Legislature partially preempted local governments’ ability to regulate home-based businesses in residential properties in its 2021 Session, effective July 1, 2021.

- The statute only allows those local regulations it specifies it allows regulation of aesthetics, signs, parking, storage, noise, and other impacts in a manner similar to how other residences without home-based businesses are regulated and allows collection of business tax receipts from home-based businesses.
- The statute does not allow prohibition of home-based businesses as long as they are secondary to the primary residential use of the property.
- The statute does not affect local vacation rental and short-term rental regulation.
- Employees of the home-based business live on premises; also, up to two employees may work there and not live there. The business can have an unlimited number of remote employees.

Ordinance 2021-08 revises Section 12-24 only to the extent necessary to comply with statute. Florida Statute is considered general law, which overrides local laws, charters, and voter actions. Any additional changes to this section beyond those required by general law, may have to go back to the voters for approval.

The Ordinance is included in **Exhibit 1**. **Exhibit 2** is the new state law.

Recommendation: Staff recommends approval of Ordinance 2021-08

Attachments:

Ex.1 – Ordinance 2021-08

Ex.2 – Chapter 2021-202, Laws of Florida

Ordinance 2021-08

**AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-
THE-SEA, FLORIDA, AMENDING CHAPTER 12
“LICENSES,” ARTICLE I “BUSINESS TAXES,” SECTION
12-24, “HOME OCCUPATIONS,” TO MODIFY
REGULATIONS TO CONFORM TO STATE LAW;
PROVIDING FOR CODIFICATION, SEVERABILITY,
CONFLICTS, AND FOR AN EFFECTIVE DATE**

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

WHEREAS, the Town Commission adopted Ord. No. 2006-10, creating regulations of home occupations on July 25, 2006, which were then approved by the electors of the Town on November 7, 2006 in accordance with the requirements of Town Charter Section 7.1(9) requiring voter approval when property is “rezoned for any other use whatsoever”; and

WHEREAS, voter-approved regulations may only be amended or repealed by another vote of the Town electors unless preempted by general law, including the statutes of the state of Florida adopted by the Florida Legislature and signed or allowed to become law by the Governor of Florida, in which case the Town Commission may amend the regulations to conform to the requirements of general law; and

WHEREAS, the 2021 Florida Legislature approved Chapter 2021-202, Laws of Florida (House Bill 403 or HB 403), effective July 1, 2021, enacting Section 559.955, Florida Statutes, to partially preempt local governments from enacting or enforcing any ordinance, regulation or policy or taking any action to license or otherwise regulate a home-based business that operates in whole or in part from a residential property; and

Ordinance 2021-08

26 **WHEREAS**, HB 403 requires that a home-based business be allowed to operate in an area
27 zoned for residential use as a use that is secondary to the property's use as a residential dwelling,
28 and local governments such as the Town may not prohibit, restrict, regulate, or license it in a
29 manner that is different from other businesses in a local government's jurisdiction, with specific
30 exceptions as detailed below; and

31 **WHEREAS**, the Town may still collect applicable business taxes under Chapter 205,
32 Florida Statutes, for the home-based businesses located in the Town; and

33 **WHEREAS**, the Town may still enforce its parking regulations, to limit the parking
34 generated by the business to the volume and regulate the use of vehicles or trailers operated or
35 parked at the business or on a street right-of-way, to what would normally be expected at a similar
36 residence where no business is conducted, and to require parking in legal parking spaces; and

37 **WHEREAS**, the Town may still regulate the parking or storage of heavy equipment
38 (commercial, industrial, or agricultural vehicles, equipment, or machinery) at the home-based
39 business which is visible from the street or neighboring property; and

40 **WHEREAS**, the Town may still require that, as viewed from the street, the use of the
41 residential property is consistent with the uses of the residential areas that surround the property,
42 and require that any external modifications to a residential dwelling to accommodate a home-based
43 business conform to the residential character and architectural aesthetics of the neighborhood; and

44 **WHEREAS**, the Town may still require that business activities comply with (i) any
45 relevant local regulations with respect to signage and equipment or processes that create noise,
46 vibration, heat, smoke, dust, glare, fumes, or noxious odors, and (ii) any local regulations of the
47 use, storage, or disposal of any corrosive, combustible, or other hazardous or flammable materials

Ordinance 2021-08

or liquids, so long as such regulations are not more stringent than those that apply to a residence where no business is conducted; and

WHEREAS, the home-based business may not conduct retail transactions at a structure other than the residential dwelling, but incidental business uses and activities may be conducted at the residential property; and

WHEREAS, employees of such home-based businesses who work at the residential dwelling must also reside in the residential dwelling, except that up to two employees or independent contractors who reside elsewhere may also work at the business, and the business may have an unlimited number of additional remote employees that do not work at the residential dwelling; and

WHEREAS, HB 403 does not affect the Town's regulations of transient public lodging establishments (vacation rentals and short term rentals); and

WHEREAS, the Town Commission desires to amend Section 12-24, "Home Occupations" to conform to the above-described state law; and

WHEREAS, the Planning and Zoning Board, sitting as the Local Planning Agency, has reviewed the contents of this Ordinance at a duly noticed public hearing on September 1, 2021, and recommended the amendments be approved; and

WHEREAS, the Town Commission conducted 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:

Ordinance 2021-08

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

SECTION 2. Amendment. Chapter 12, “Licenses,” Article I “Business Taxes,” Section 12-24 “Home Occupations” of the Town Code of Ordinances, is hereby amended as follows¹:

Chapter 12 - LICENSES**ARTICLE I. – BUSINESS TAXES**

* * *

Sec. 12-24. – Home Occupations.

(a) No person may operate a business from a residence within the Town without first making application for and being issued a home business license. Home occupations shall be permitted subject to these specific regulations designed for the protection of residential neighborhoods; ~~where all of the activity takes place within a structure, and~~ where the principal use is for residential purposes.

(b) In order for any home occupation to be permitted or continue to be permitted, the following performance standards shall be agreed to in writing by the applicant and be maintained for the duration of the home business occupational ~~occupational~~ license:

(1) ~~The use of the residential property shall be consistent with the residential character and integrity of the neighborhood. must not be disturbed and the occupational activity at the home shall not be noticeable from off the premises.~~

(2) ~~The A-home occupation activities shall be secondary to the property’s use as a residential dwelling. only be conducted within 20 percent of the living area of the dwelling including interior halls, closets and storage areas, but excluding garages, screened porches, accessory buildings or any similar space not suited or intended as living quarters.~~

(3) A home occupation shall be conducted at the licensed address only by residents of that dwelling unit. No more than two employees or independent contractors who do not reside at the address may work at the home business.

(4) The giving of individual instruction or tutoring to one person at a time, such as a language, art or piano teacher, shall be deemed a permissible home occupation.

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

Ordinance 2021-08

(5) No equipment or process shall be used in a home occupation which creates greater fumes, glare, noise, odors, vibration, or electrical interference detectable to the normal senses off the lot than would be associated with residential use, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises.

(6) No traffic shall be generated by a home occupation in greater volumes than would normally be expected ~~in a residential neighborhood at a similar residence not used for a home occupation~~, and any need for parking generated by the conduct of a home occupation shall be met by off-street parking which complies with chapters 17 and 23 of the Code of Ordinances.

(7) All pick-ups or deliveries to or from a dwelling unit in which a home occupation is located, shall be performed by vehicles which are able to park on the driveway or within the property of the dwelling unit and shall not park on the swale areas of the public right-of-way. Such vehicles, pick-ups and deliveries shall not block the public right-of-way, swale, or sidewalk areas in residential neighborhoods. ~~Vehicle deliveries which are associated with the home occupation shall be limited to three pickups and/or deliveries per day.~~

(8) All storage of materials or supplies used in the home occupation shall be done within the living area of the dwelling unit, ~~within the space limitations specified in subsection (2) above~~ and shall not be visible from adjacent residential units. Contractors, tradespersons and the like shall not use their home garage or yard areas for storage of materials and supplies used in business activities.

(9) Any signage shall comply with the Sign Regulations in Article VIII, Chapter 30 of the Code of Ordinances. ~~There shall be no signs or advertisement of any kind or other exterior indication of the home occupation which is located at the dwelling unit. No window display in the dwelling unit or in any accessory buildings shall be permitted.~~

(10) No person may engage in a home occupation without first obtaining an occupational license from the Town. The annual home occupation license fee shall be \$50.00.

(11) The following uses shall not be permitted as home occupations:

~~a. Automobile and boat repair, body work, or storage.~~

~~b. Automobile, truck aircraft and/or boat engine repairs, sale of parts, fixtures, and equipment and the repair or rebuilding of same.~~

~~c. Bed and breakfast facilities, hostel, boarding room, or house.~~

~~d. Woodworking shops, cabinet makers, machine shops.~~

~~e. Hair salons, barber shops, gymnasiums, dance studios, aerobic exercise studios.~~

Ordinance 2021-08

f. ~~Limousine or bus service; school bus service.~~

g. ~~Marijuana, including medical marijuana, preparation, cultivation, storage, processing, manufacturing, delivering or dispensing for any personal, business or occupational use whatsoever.~~

h. ~~Medical, dental, chiropractic or physical rehabilitation occupancy utilizing any employees or staff other than residents of the dwelling unit (limited to consultation with occupant of the dwelling unit).~~

i. ~~Morticians or funeral parlors.~~

j. ~~Palm reading or fortune telling.~~

k. ~~Private, social, dining, or fraternal clubs.~~

l. ~~Restaurants, taverns, cafés, bars or catering facilities.~~

m. ~~Tow truck service.~~

n. ~~Upholstery shops.~~

o. ~~Veterinary uses, including care, grooming, or boarding.~~

p. ~~Photo developing and photo studios.~~

q. ~~Television, radio, VCR, computer, and general electronics repair.~~

r. ~~Small engine and appliance repair.~~

s. ~~Welding shops.~~

t. ~~Adult entertainment facilities, video rental/sale, drycleaning, self-storage, book stores, or theaters.~~

u. ~~Private schools.~~

v. ~~State or County licensed alcohol or drug rehabilitation or licensed facilities for juvenile delinquents.~~

(c) A home occupation shall be subject to all business tax receipt provisions defined in chapter 12 of the Town of Lauderdale-By-The-Sea Code of Ordinances. No home business tax receipt shall be issued without a physical inspection of the property for compliance with the Town Code.

(d) *Enforcement.*

Ordinance 2021-08

(1) The Town Code Enforcement Board shall have jurisdiction to hear and decide cases in which violations of this chapter are alleged; or

(2) The Town may enforce the provision of this Code by supplemental code or ordinance enforcement procedures as provided by F.S. ch. 162, pt. 2; or

(3) The Town may prosecute violations by issuance of notices to appear for violation of a Town ordinance, in which case, the penalty for a violation shall be as follows:

a. First violation \$100.00

b. Second violation within 12 months of adjudication of first violation \$150.00

c. Third violation within 18 months of adjudication of first violation \$250.00

Each day on which a violation exists shall constitute a separate violation for the purpose of determining the fine; or

d. The Town Attorney, with authorization from the Town Commission, may bring suit on behalf of the Town to enjoin any violation of this section.

* * *

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.

Ordinance 2021-08

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

Commissioner Sokolow

Commissioner Strauss

Commissioner Malkoon

ATTEST:

Tedra Allen, Town Clerk

APPROVED AS TO FORM:

Susan L. Trevarthen, Town Attorney

CHAPTER 2021-202

Committee Substitute for House Bill No. 403

An act relating to home-based businesses; creating s. 559.955, F.S.; prohibiting local governments from taking certain actions relating to the licensure and regulation of home-based businesses; specifying conditions under which a business is considered a home-based business; defining the term “heavy equipment”; authorizing home-based businesses to operate in areas zoned for residential use; specifying that home-based businesses are subject to certain business taxes; authorizing adversely affected current or prospective home-based business owners to challenge certain local government actions; authorizing the prevailing party in such challenge to recover specified attorney fees and costs; providing that certain existing and future residential association declarations and documents are not superseded by the act; providing that certain local laws, ordinances, or regulations are not superseded; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 559.955, Florida Statutes, is created to read:

559.955 Home-based businesses; local government restrictions.—

(1) Local governments may not enact or enforce any ordinance, regulation, or policy or take any action to license or otherwise regulate a home-based business in violation of this section.

(2) A home-based business that operates from a residential property as provided in subsection (3):

(a) May operate in an area zoned for residential use.

(b) May not be prohibited, restricted, regulated, or licensed in a manner that is different from other businesses in a local government’s jurisdiction, except as otherwise provided in this section.

(c) Is only subject to applicable business taxes under chapter 205 in the county and municipality in which the home-based business is located.

(3) For purposes of this section, a business is considered a home-based business if it operates, in whole or in part, from a residential property and meets the following criteria:

(a) The employees of the business who work at the residential dwelling must also reside in the residential dwelling, except that up to a total of two employees or independent contractors who do not reside at the residential dwelling may work at the business. The business may have additional remote employees that do not work at the residential dwelling.

(b) Parking related to the business activities of the home-based business complies with local zoning requirements and the need for parking generated by the business may not be greater in volume than would normally be expected at a similar residence where no business is conducted. Local governments may regulate the use of vehicles or trailers operated or parked at the business or on a street right-of-way, provided that such regulations are not more stringent than those for a residence where no business is conducted. Vehicles and trailers used in connection with the business must be parked in legal parking spaces that are not located within the right-of-way, on or over a sidewalk, or on any unimproved surfaces at the residence. Local governments may regulate the parking or storage of heavy equipment at the business which is visible from the street or neighboring property. For purposes of this paragraph, the term “heavy equipment” means commercial, industrial, or agricultural vehicles, equipment, or machinery.

(c) As viewed from the street, the use of the residential property is consistent with the uses of the residential areas that surround the property. External modifications made to a residential dwelling to accommodate a home-based business must conform to the residential character and architectural aesthetics of the neighborhood. The home-based business may not conduct retail transactions at a structure other than the residential dwelling; however, incidental business uses and activities may be conducted at the residential property.

(d) The activities of the home-based business are secondary to the property’s use as a residential dwelling.

(e) The business activities comply with any relevant local or state regulations with respect to signage and equipment or processes that create noise, vibration, heat, smoke, dust, glare, fumes, or noxious odors. Any local regulations on a business with respect to noise, vibration, heat, smoke, dust, glare, fumes, or noxious odors may not be more stringent than those that apply to a residence where no business is conducted.

(f) All business activities comply with any relevant local, state, and federal regulations with respect to the use, storage, or disposal of any corrosive, combustible, or other hazardous or flammable materials or liquids. Any local regulations on a business with respect to the use, storage, or disposal of any corrosive, combustible, or other hazardous or flammable materials or liquids may not be more stringent than those that apply to a residence where no business is conducted.

(4) Any adversely affected current or prospective home-based business owner may challenge any local government action in violation of this section. The prevailing party in a challenge may recover reasonable attorney fees and costs incurred in challenging or defending the action, including reasonable appellate attorney fees and costs.

(5) The application of this section does not supersede:

(a) Any current or future declaration or declaration of condominium adopted pursuant to chapter 718, cooperative document adopted pursuant to chapter 719, or declaration or declaration of covenant adopted pursuant to chapter 720.

(b) Local laws, ordinances, or regulations related to transient public lodging establishments, as defined in s. 509.013(4)(a)1., that are not otherwise preempted under chapter 509.

Section 2. This act shall take effect July 1, 2021.

Approved by the Governor June 29, 2021.

Filed in Office Secretary of State June 29, 2021.



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: September 1, 2021

Project: Ordinance 2021-09 AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 30 "UNIFIED LAND DEVELOPMENT REGULATIONS," ARTICLE I, "IN GENERAL," SECTION 30-11 "DEFINITIONS;" AMENDING ARTICLE V "ZONING," SECTION 30-241, "RM-25 DISTRICT—APARTMENTS AND LODGING," TO MODIFY CONDITIONAL USE REGULATIONS SOUTH OF PINE AVENUE AND CREATE PROHIBITED USE REGULATIONS ON EL MAR DRIVE; AMENDING SECTION 30-242, "RM-25 DISTRICT—REGULATIONS FOR THE REDEVELOPMENT OF EXISTING LOTS OF 60 FEET IN WIDTH OR LESS IN THE RM-25 DISTRICTS SOUTH OF PINE AVENUE" TO MODIFY REQUIREMENTS; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND FOR AN EFFECTIVE DATE

Background

Over the last several months, Staff has received several Commission directives and public comments which spurred a review of Chapter 30 of the Town's Code. The proposed changes update definitions, modify regulations and requirements as outlined in Chapter 30 of the Town's Code. They are being proposed to clarify the relationship between the Town's code and planning directives. The proposed changes are included in **Table 1** below.

Review

Staff has prepared Ordinance 2021-09 (**Exhibit 1**) to incorporate the recommended changes. The proposed changes were also reviewed with the Town Attorney and Town Manager where applicable.

Table 1- Proposed changes to Chapter 30

	Issue	Ordinance Requirement	Ordinance Line Number
1.	Clarify definition of apartment house.	Note that the Code uses apartment house and apartment building interchangeably.	59
2.	Establish prohibited uses adjacent to El Mar in the RM-25 zoning district.	Prohibit single family residences, duplexes and churches on El Mar drive.	80-83
3.	Limit conditional uses allowed south of Pine Avenue.	Remove single family residences, duplexes, and home offices as conditional uses. Home office regulations will be covered by Section 12-24, being separately updated	86-97

	Issue	Ordinance Requirement	Ordinance Line Number
		to conform to state preemption.	
4.	Modify regulations for existing lots of 60 ft in width or less in the RM-25 zoning district south of Pine Avenue.	Update intent language and remove density requirements and short-term rental prohibition for lots 60 ft or less in width that are located west of fronting on Bougainvillea Drive.	139-162
5.	Remove landscape strip requirements and limits on the number of units and lot sizes based on the depth of lots for the redevelopment of existing lots of 60 ft in width or less in the RM-25 zoning district south of Pine Avenue.	Update language to remove landscape strip requirements.	148,153 and 162-164

1. Clarify Definition of Apartment House

The Town's Code references "apartment house" and "apartment building". Since the phrases are used interchangeably, a definition for "apartment house" is being proposed to provide clarification and clear definitions.

2. Establish Prohibited Uses Adjacent to El Mar Drive in the RM-25 Zoning District

In 2012, the community was concerned over the loss of hotel rooms due to the prior development approvals of Oriana and Villas By the Sea. Town Commission workshops were held and, after discussion of how important the hotels were to the viability of the commercial uses downtown, the Town Commission established a priority to protect hotel uses in the Town. Several options were considered to implement this priority. We amended parking requirements for hotels, established an inspection program, we funded a façade improvement program, and we considered changes to the Code. There was a related concern that a proliferation of single family and duplex uses would inhibit the hospitality uses in RM-25, which is described in the Code as a zoning district for "apartments and lodging," because single family and duplex residents usually expect a more quiet and tranquil environment.

Also to advance this priority, the Town Commission discussed revisions to Chapter 30. As part of the review undertaken at that time, the Town Commission revised the Code of Ordinances so that single family residences and duplexes were no longer permitted uses in the RM-25 zone and would require conditional use approval. The intent of this change was to further implement the purpose of the RM-25 zone. The requirement to seek conditional use approval would make clear to applicants that the single family and duplex use was not the focus of this area of the Town. While the Town Administration considered prohibiting these uses at the time, the Administration ultimately recommended proceeding with the conditional use approach to avoid any potential complications or delays in enactment.

Over the last several months, the Town Commission has renewed its discussion regarding single-family uses in the RM-25 zoning district and requested that Staff bring forward an ordinance for consideration which eliminates single-family residences as a conditional use adjacent to El Mar Drive in the RM-25 Zoning district.

Based on the Commission's directive, Staff reviewed the Code along with the Town Attorney and is proposing the attached ordinance for the Board's review and consideration.

The draft Ordinance prohibits single family residences and duplexes adjacent to El Mar Drive. The result of this change is that single family residences and duplexes will not be allowed at all adjacent to El Mar Drive but will continue to be permitted as a conditional use for the rest of the RM-25 zoning district. Staff is also recommending that churches and places of worship be prohibited adjacent to El Mar Drive.

In addition, this Ordinance removes the conditional use for limited home office use from the RM-25 zoning district. The recent passing of HB 403 created a state preemption which required the removal of this language from the Town's Code. All other preemptions created as a result of the passage of HB 403 have been addressed under a separate ordinance modifying the Town's regulations of home occupations in Section 12-24 of the Town Code of Ordinances (Ordinance 2021-08).

3. Modify regulations for existing lots of 60 ft in width or less in the RM-25 zoning district south of Pine Avenue.

At the April 13th Town Commission meeting (**Exhibit 2**), two individuals spoke during public comment asking for the Commission to consider changing the Town's regulations which prohibit short term tenancy in the RM-25 zoning district on lots less than 60 foot in width and west of or fronting on Bougainvillea Drive. Town staff researched this provision previously and provided detailed analyses of its impact on the community to the Town Commission. There have been numerous public inquiries and discussions at Town Commission meetings of the issues raised by this prohibition over many years, without direction to proceed on revisions to the Code.

Staff could not determine the original intent of the legislation and, with the state preemptions resulting in the permission of vacation rental and short-term tenancies even in single family districts, the prohibition has led to different Code regulations for properties depending on the width of the lot, the date the lot may have been subdivided and the side of the street the property in question is located. Staff has found that the Code language is confusing for the general public to interpret, and it does not encourage redevelopment of these older multi-family properties which was the stated intent of the original ordinance. Furthermore, because it discourages rental properties in the "Apartment and Lodging" zoning district (RM-25), it encourages those persons seeking to establish rentals to purchase in our single-family residential areas.

The Interim Town Manager requested Commission direction at the April 27th (**Exhibit 3**) Town Commission meeting as to whether to move forward with an ordinance to amend the code to remove the aforementioned provisions. The Commission requested that staff draft an ordinance.

In addition to eliminating the limitation on short term rentals and hotels, the proposed ordinance also removes the requirements limiting the number of units and the minimum lot size requirements, based on the depth of the property. Instead, these characteristics will be subject to the density requirements (25 units an acre) of the existing Code and the minimum square footage limitations of Section XX. The elimination of these provisions will ensure that the properties are treated consistently with similar properties in the RM-25 zoning district.

Finally, landscape strip requirements for these narrow lots were also removed because of the difficulty applicants face in meeting parking requirements on smaller lots.

Applicability to Pending Applications

The draft Ordinance is silent on whether it applies to pending applications for conditional uses that will be prohibited by the Ordinance. An application for a single-family residence on El Mar is currently pending, and

was initially submitted to the Town prior to April 1, 2021. Staff requests that the Planning and Zoning Board recommend whether the Ordinance should not apply to this application. If so, language will need to be added to the Ordinance such as the following:

“This Ordinance shall not apply to any application that was initially submitted to the Town prior to April 1, 2021.”

Recommendation: Staff recommends approval of Ordinance 2021-04.

Attachments:

Ex.1 – Ordinance 2021-09

Ex.2 – April 13th Town Commission Meeting Minutes

Ex.3- April 27th Town Commission Meeting Minutes

Ordinance 2021-09

1 **AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-**
2 **THE-SEA, FLORIDA, AMENDING CHAPTER 30 “UNIFIED**
3 **LAND DEVELOPMENT REGULATIONS,” ARTICLE I, “IN**
4 **GENERAL,” SECTION 30-11 “DEFINITIONS;” AMENDING**
5 **ARTICLE V “ZONING,” SECTION 30-241, “RM-25**
6 **DISTRICT—APARTMENTS AND LODGING,” TO MODIFY**
7 **CONDITIONAL USE REGULATIONS SOUTH OF PINE**
8 **AVENUE AND CREATE PROHIBITED USE**
9 **REGULATIONS ON EL MAR DRIVE; AMENDING**
10 **SECTION 30-242, “RM-25 DISTRICT—REGULATIONS**
11 **FOR THE REDEVELOPMENT OF EXISTING LOTS OF 60**
12 **FEET IN WIDTH OR LESS IN THE RM-25 DISTRICTS**
13 **SOUTH OF PINE AVENUE” TO MODIFY**
14 **REQUIREMENTS; PROVIDING FOR CODIFICATION,**
15 **SEVERABILITY, CONFLICTS, AND FOR AN EFFECTIVE**
16 **DATE**

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

21 **WHEREAS**, the Town Commission desires to amend Section 30-11 “Definitions” to add
22 a definition; and

23 **WHEREAS**, the Town Commission desires to amend Section 30-241, “RM-25 District—
24 Apartments and Lodging” to modify conditional use regulations south of Pine Avenue and create
25 prohibited use regulations for properties on El Mar Drive; and

26 **WHEREAS**, the Town Commission desires to amend Section 30-242, “RM-25 District—
27 Regulations for the Redevelopment of Existing Lots of 60 Feet In Width or Less In the RM-25
28 Districts South of Pine Avenue” to modify the use and landscape strip regulations; and

29 **WHEREAS**, the Planning and Zoning Board, sitting as the Local Planning Agency, has
30 reviewed the contents of this Ordinance at a duly noticed public hearing on September 1, 2021,
31 and recommended the amendments be approved; and

Ordinance 2021-09

WHEREAS, the Town Commission conducted 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. Chapter 30, “Unified Land Development Regulations,” Article I, “In General,” “Definitions,” Article V “Zoning,” Division 2, “Districts,” Subdivision I, “RM-25 District Regulations,” Sections 30-241, “RM-25 District—Apartments and Lodging” and 30-242, “RM-25 district—Regulations for the Redevelopment of Existing Lots of 60 Feet In Width or Less In the RM-25 Districts South of Pine Avenue” of the Town Code of Ordinances, are hereby amended as follows¹:

Chapter 30 - UNIFIED LAND DEVELOPMENT REGULATIONS

* * *

ARTICLE I. IN GENERAL

* * *

Sec. 30-11. - Definitions.

(a) *Purpose.* The purpose of this subsection is to provide rules of interpretation of words and phrases, and to define words, phrases and abbreviations contained within this chapter.

* * *

(2) *Terms defined.*

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

Ordinance 2021-09

* * *

Apartment building. A residential rental property with four or more dwelling units.

Apartment house. See apartment building.

Awning. Any movable or non-movable roof-like structure that is cantilevered from or otherwise entirely supported by a building.

* * *

ARTICLE V. – ZONING

* * *

DIVISION 2. – DISTRICTS

* * *

Subdivision I. – RM-25 District Regulations

* * *

Sec. 30-241. - RM-25 district—Apartments and lodging.

(a) *Use.* 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 one or more of the following uses:

(1) *Permitted uses south of Pine Avenue.*

a. Apartment house; and

b. Hotel.

(2) *Permitted uses north of Pine Avenue.*

a. Multiple-family dwelling.

b. Hotel, motel or timeshare apartment.

c. Townhouse.

(3) *Prohibited uses for properties east of or adjacent to El Mar Drive.*

a. Single-family residence.

b. Duplex.

Ordinance 2021-09

~~c. Group or foster homes (as defined in the Town's land use plan as special residential facilities category 1 and 2) SLT to verify if this will work~~

c. Church or parish building.

~~(4)(3)~~ Conditional uses south of Pine Avenue. The following uses may be permitted, subject to the requirements for conditional use review as set forth in section 30-126 of the Town Code:

~~a. Single family residence unless exempted by section 30-242(a)(4);~~

~~b. Duplex, unless exempted by section 30-242(a)(4); duplex development is subject to the notice requirement of section 30-221(f) (the reconstruction of a split lot duplex property is subject to section 30-137, nonconforming uses);~~

c. Group or foster homes (as defined in the Town's land use plan as special residential facilities category 1 and 2);

~~d. Church or parish building;~~

~~e. Office of professional person residing on premises, such as architect, real estate broker, physician, dentist, engineer, lawyer, and customary home occupations when conducted on the premises, such as dressmaker, millinery and sewing, provided there is no display of goods or advertising other than a small name plate, and that area for such occupation shall not constitute more than one third of the area of such residential building.~~

~~(5)(4)~~ Conditional uses north of Pine Avenue. The following uses may be permitted, subject to the requirements for conditional use review as set forth in section 30-126 of the Town Code:

a. Adult day care.

b. Nursing home.

~~(6)(5)~~ Temporary uses. A temporary real estate sales office may be permitted on a site under the following conditions:

a. The parcel has an active Town Commission approved site plan or building permit;

b. There are adequate parking spaces for the sales use based upon the office parking requirements established in section 30-318 of the Town Code;

c. The office does not exceed 1,000 square feet;

d. The office is approved by the Town Commission in conjunction with the Commission's approval of the site plan, or by other separate consideration;

Ordinance 2021-09

e. The office shall not be allowed to remain in use for more than six months from the effective date of the temporary office approval or, if applicable, the related temporary office building permit, whichever is later, unless time extensions are granted by the Town Commission.

~~(7)(6)~~ *Special accessory uses.*

a. Hotels, motels and apartment hotels located south of Pine Avenue, with a minimum of 100 dwelling units or more may provide restaurants and gift shops when the uses are an ancillary use to the primary hotels or residential use, subject to the following:

1. The maximum size of floor area of said uses, either individually or in total, shall not exceed 4,000 square feet or five percent of the total building floor area.

b. Hotels and motels located north of Pine Avenue may have the following accessory uses:

1. Hotels and motels having 50 or more units may have restaurants and gift shops. Such uses shall be located within the principal building(s) although outside seating may be provided in conjunction with a restaurant.

2. Hotels, motels and community residential facilities having 100 or more units may provide retail stores, personal service shops and convention facilities for guests or residents. Such uses shall be located within the principal building(s) and shall only be accessed through the main lobby of the facility.

3. The aggregate gross floor area of all permitted accessory uses shall not exceed 30 percent of the gross floor area of the principal building(s) on the lot.

c. Parking shall be permitted as an accessory use.

d. Bicycle parking when accessory to a hotel or apartment hotel use, shall be permitted in lieu of providing required off-street parking, as specified in section 30-318, minimum parking requirements, ~~(i)(e) hotels, and motels, and apartment hotels.~~²

e. Vacation rental is a permitted accessory use if a vacation rental certificate is first obtained pursuant to section 30-327.

* * *

Sec. 30-242. - RM-25 district—Regulations for the redevelopment of existing lots of 60 feet in width or less in the RM-25 districts south of Pine Avenue.

~~These provisions are intended to encourage the redevelopment of property within the Town. These provisions shall apply only to existing lots or plots of 60 feet or less in width west of or fronting~~

² Corrects a typographical error in the current Code.

Ordinance 2021-09

on Bougainville Drive that existed as of September 13, 2000. These provisions shall not be applicable to lots or plots that are created by the subdivision of wider lots or plots after September 13, 2000. ~~The All other~~ provisions of the Town's Land Development Code shall continue to apply; especially those pertaining to the development within an RM-25 district, except that the provisions herein set forth shall apply to the redevelopment of lots or plots 60 feet in width or less in the RM-25 district to the extent of a conflict.

(a) *Density Use.*

~~(1) Lots or plots with less than or equal to 140 feet in depth shall be limited to two dwelling units per lot or plot with a minimum of 1,800 square feet of living area in each dwelling unit.~~

~~(2) Lots or plots greater than 140 feet in depth shall be limited to three dwelling units per lot or plot with a minimum of 2,000 square feet of living area in each dwelling unit.~~

~~(3) Hotel, motel or short term tenancy units are a prohibited use for such lots or plots west of Bougainville Drive.~~

~~(4)(1) Single family and duplex dwellings are permitted, exempt from the conditional use approval requirements established in section 30-241(a)(2), but are subject to the notice requirement of section 30-221(f).~~

~~(5)(2) The reconstruction of a split lot duplex property is subject to section 30-137, nonconforming uses and structures.~~

* * *

~~(e) Landscape strip. There shall be a landscape strip abutting all pavement adjacent to the property line measuring a minimum of two and one-half feet in width, except for permitted driveway connections to the street.~~

* * *

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.

Ordinance 2021-09

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

Commissioner Sokolow

Commissioner Strauss

Commissioner Malkoon

ATTEST:

Tedra Allen, Town Clerk

APPROVED AS TO FORM:

Susan L. Trevarthen, Town Attorney

**TOWN OF LAUDERDALE-BY-THE-SEA
TOWN COMMISSION
MEETING MINUTES
Jarvis Hall
4505 Ocean Drive
Tuesday, April 13, 2021
6:30 PM**

1. CALL TO ORDER

Mayor Chris Vincent called the meeting to order at 6:31 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 Interim 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, Human Resources Manager Lisa Slagle, and Public Information Officer/IT Administrator Steve d’Oliveira and Town Clerk Tedra Allen.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION

All present observed a moment of silence in memory of longtime resident Jerry Sehl.

4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS

None.

5. PRESENTATIONS

None.

6. PUBLIC COMMENTS

At this time Mayor Vincent opened public comment.

Town Clerk Tedra Allen read the following public comment:

- Barbara Cole, resident, opposed the seating arrangements proposed for the reopening of Jarvis Hall in May 2021

Lauderdale-By-The-Sea
Virtual Town Commission Meeting
April 13, 2021

Betty Bauman, resident, requested that the Commission revisit restrictions on short-term rental lots under 60 ft. in width and west of Bougainvillea Drive, which is zoned RM-25. She also requested clarification of the reason there is a difference in the regulation of short-term rentals on the east and west sides of Bougainvillea Drive.

Alan Zuckerman, visitor to the Town, advised that a property he hoped to purchase on Poinciana Street is located in the zoning area where short-term rentals are not permitted. He requested that the Commission reconsider the Town's position on the zoning of short-term rental properties in the subject area.

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

7. PUBLIC SAFETY DISCUSSION

a. VFD February & March 2021 Report (Chief Judson Hopping)

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

b. BSO March 2021 Report (Captain Thomas Palmer, BSO)

Captain Thomas Palmer of the Broward Sheriff's Office (BSO) advised that an auto theft in March 2021 occurred because a key fob was left in the vehicle, and strongly encouraged all residents to make sure their vehicles are locked.

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

8. TOWN MANAGER REPORT

a. February Finance Report (Lucila Lang, Director of Finance & Budget)

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

Interim Town Manager Linda Connors requested that Item 13h be moved on the Agenda to follow Item 13b. The Commissioners agreed by consensus.

**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.

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



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

To: Planning and Zoning Board
From: Jhanelle Campbell, Acting Development Services Director
Date: August 27, 2021
Meeting Date: September 1, 2021
Project: Ordinance Creating Regulations for Citizen Participation Plans as part of the Development Review Process

Purpose: To create regulations for the requirement of a Citizen Participation plan for site plan, level 2 site plan modifications, rezoning and land use amendment applications.

Explanation: Large scale development projects can shape the Town for years to come. Because of this, opportunities for our citizenry to engage in development applications is important. Our current code includes opportunities for public engagement during the Planning and Zoning Board and Commission public hearings. For larger projects, staff has always encouraged developers to engage in the public earlier during the process so that the public's concerns are realized and potentially addressed before moving through the approval process. This allows for important community input that can eliminate timely delays if the Planning and Zoning Board or Town Commission postpone a vote to request additional information or request the applicant consider similar revisions to the proposal.

Ordinance 2021-11 creates Section 30-114 formalizing the Town's encouragement for additional public participation opportunities. The proposed ordinance requires a citizen participation process as part of the development review process for site plans, level 2 site plan modification, rezoning and land use amendment applications. The proposed ordinance accomplishes the following:

- Requires applicants for approval of a site plan, level 2 site plan modification, grant of a conditional use, rezoning, or land use plan amendment to prepare and execute a plan for citizen participation.
- Specifies requirements for the plan and for the report to be submitted at the conclusion of implementing the plan, at least 21 days prior to the Planning and Zoning Board hearing on the application.
- Requires Town Manager approval of plan prior to implementation.
- Involves those in the mailed notice radius as well as those who have expressed interest.
- Requires at least one meeting.
- Includes a written report of the process as an exhibit to the staff report to the Planning and Zoning Board and Town Commission for their consideration of the application.

The Ordinance is included in **Exhibit 1**.

Recommendation: Staff recommends approval of Ordinance 2021-11

Attachments:

Ex.1 – Ordinance 2021-11

ORDINANCE 2021-11

AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 30 “UNIFIED LAND DEVELOPMENT REGULATIONS,” ARTICLE V “ZONING,” TO CREATE SECTION 30-114, “CITIZEN PARTICIPATION PLANS REQUIRED”; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND FOR AN EFFECTIVE DATE

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

WHEREAS, the Town Commission desires to create Section 30-114, “Citizen participation plans required” to assure that the citizens of the Town have ample notice and input into development proposals and that applicants have the opportunity to respond to that input prior to bringing any site plan, conditional use, rezoning, or land use plan amendment application to a hearing by the Planning and Zoning Board or the Town Commission; and

WHEREAS, the Planning and Zoning Board, sitting as the Local Planning Agency, has reviewed the contents of this Ordinance at a duly noticed public hearing on September 1, 2021, and recommended the amendments be approved; and

WHEREAS, the Town Commission conducted 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:

27 **SECTION 1. Recitals.** The preceding “Whereas” clauses are ratified and incorporated as
28 the legislative intent of this Ordinance.

29 **SECTION 2. Amendment.** Chapter 30, “Unified Land Development Regulations,”
30 Article IV. “Development Permits - Applications, Requirements And Review Procedures,”
31 Division 1 “Generally” of the Town Code of Ordinances is hereby amended to create Section 30-
32 114, “Citizen participation plans required” as follows:¹

33 **Sec. 30-114. Citizen participation plans required.**

34 (a) Purpose and intent. The public participation process provides for the ability of citizens of the
35 Town to actively participate in the Town's development procedures and will allow the Town's
36 citizens to play an essential role in shaping the direction of the Town's development, thereby
37 enhancing the welfare of the community.

38 (b) Applicability. All applicants submitting applications to the Town for approval of a site plan,
39 site plan level 2 modification, grant of a conditional use, rezoning, or land use plan amendment
40 shall prepare and execute a plan for citizen participation in accordance with this section.

41 (c) Process. Citizen participation plans must be approved by the Town Manager or designee prior
42 to execution by the applicant. The applicant shall thereafter implement the citizen participation
43 plan and submit to the Town a written citizen participation report setting forth the results of the
44 citizen participation plan procedures at least twenty-one (21) days prior to the Planning and Zoning
45 Board’s review of the application, in accordance with the requirements of this section.

46 (d) Citizen participation plan and report.

47 (1) Citizen participation plan. All citizen participation plans shall include:

48 a. A list of residents and/or property owners, interested parties, and public agencies
49 that may be affected by the application (affected parties). The names and addresses
50 of residents and property owners within the mailed notice area applicable to the
51 requested approval, as set forth in the Code of Ordinances, shall be provided to
52 applicant by DSD or designee. The DSD or designee shall also provide the
53 applicant with all names of any other interested parties and/or public agencies who
54 have contacted the Town Clerk or DSD with a stated an interest in the application.

55 b. A summary of how the applicant proposes that it will notify all "affected parties"
56 of the application.

57 c. A summary of the proposed application.

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

d. A description of the manner in which the applicant proposes that it will disseminate information to residents, property owners and/or interested parties.

e. A schedule of events planned by the applicant to complete the citizen-participation procedure. Applicant shall be required to conduct a minimum of one (1) public meeting with "affected parties," or additional number of meetings as may be directed by the ~~Development Services Director~~ DSD or designee.

f. A description of how the applicant will disseminate the schedule of events, and how the applicant will keep the ~~Development Services Director~~ DSD or designee informed of the status of its citizen participation efforts.

(2) Citizen participation report. All citizen participation reports shall include:

a. A written summary of the results of the citizen participation effort prior to the first public meeting in which the application is heard.

b. Dates and locations of all meetings where citizens were invited to discuss the applicant's proposal.

c. The names, dates, and number of people that participated in the process. The applicant shall request that attendees provide their address and email address, and report that information if available.

d. A written summary of the issues and concerns raised by residents and how the applicant proposes to resolve these issues and concerns. If the applicant is unable or unwilling to resolve the issues, the summary should state the reason why these issues cannot be resolved.

e. The report shall be reviewed by the DSD or designee to determine whether the applicant has completed the citizen participation process prior to its transmittal by staff to the Planning and Zoning Board.

(e) Consideration by the Planning and Zoning Board and the Town Commission. The applicant's citizen participation report shall be included as an exhibit to the staff report, and any issues raised by interested parties within the report, pertinent to any provision of the Town Code of Ordinances which may affect the Planning and Zoning Board's recommendation and/or the Town Commission's determination of the application may be taken into consideration by the Town Commission as part of its deliberations. ~~The submitted citizen participation plan shall be considered as one more piece of information to assist Town Commission in their decision making.~~

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	_____	_____
Commissioner Sokolow	_____	_____
Commissioner Strauss	_____	_____
Commissioner Malkoon	_____	_____

ATTEST:

Tedra Allen, Town Clerk

125 APPROVED AS TO FORM:

126

127

128

129

Susan L. Trevarthen, Town Attorney

130