



AGENDA ITEM REQUEST FORM

Item No. 10.2.a

Development Services

Jeff Bowman

Department Submitting Request

Dept Head's Signature

REG COMMISSION
Meeting Dates 7:00PM

DEADLINE TO
Town Clerk's Office

ROUNDTABLE
Meeting Dates 7:00PM

DEADLINE TO
Town Clerk's Office

- Oct 12, 2010
- Nov 9, 2010*
- Dec 14, 2010
- Jan 11, 2011
- Feb 8, 2011
- Mar 8, 2011

- Oct 1 (5:00 pm)
- Nov 12 (5:00 pm)
- Dec 3 (5:00 pm)
- Dec 31 (5:00 pm)
- Jan 28 (5:00 pm)
- Feb 25 (5:00 pm)

- Oct 26, 2010
- Nov 23, 2010*
- Dec 28, 2010*
- Jan 25, 2011
- Feb 22, 2011
- Mar 22, 2011

- Oct 15 (5:00 pm)
- Nov 12 (5:00 pm)
- Dec 17 (5:00 pm)
- Jan 14 (5:00 pm)
- Feb 11 (5:00 pm)
- Mar 11 (5:00 pm)

*Subject to Change

- | | | | |
|---------------------------------------|---|---------------------------------------|---|
| <input type="checkbox"/> Presentation | <input type="checkbox"/> Reports | <input type="checkbox"/> Consent | <input checked="" type="checkbox"/> Ordinance |
| <input type="checkbox"/> Resolution | <input type="checkbox"/> Quasi Judicial | <input type="checkbox"/> Old Business | <input type="checkbox"/> New Business |

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

EXPLANATION: Last summer, the Commission asked staff to bring back recommendations for expanding the business uses allowed in Town. At the Commission meeting of July 27, 2010, the Commission approved Resolution 2010-16 adopting a Notice of Intent for amending Chapter 30 "Unified Land Development Regulations" to revise the business uses in the B-1 and B-1-A zoning districts. A public hearing was held on the Notice of Intent at the Town Commission meeting on August 25, 2010.

Consultant Walter Keller reviewed the existing business uses in the B-1 and B-1-A zoning districts, and commonly accepted business uses from other cities. Mr. Keller provided a suggested listing of uses for the Planning and Zoning Board. On September 15, 2010, the Planning and Zoning Board reviewed the proposed uses, and recommended approval by a vote of 4 – 0.

Mr. Keller and the Planning and Zoning Board also recommended some conditional uses be added to these districts, which staff supports. However, the recommended conditional uses and their related criteria and procedures are outside the scope of the current Notice of Intent, and thus this issue will be brought to the Town Commission separately.

The Ordinance was approved by the Commission on first reading on October 12, 2010. At the October 26th roundtable meeting the Commission reached consensus on striking a number of uses from the Ordinance and asked the Town Attorney to research issues related to cigar and tobacco shops. As a result of that research, the Town Attorney has stricken cigar and tobacco shops from the ordinance because they have identified pending litigation on this subject and other legal uncertainties regarding the ability of local governments to regulate this particular use. The Town Attorney feels the safest course of action is to simply remove cigar and tobacco shops as a permitted use and to avoid any legal challenges. The Town Attorney will be prepared to discuss that at the meeting. The existing cigar store in Town will be grandfathered in and can continue to legally operate.



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The Ordinance is being presented with the changes the Commission requested and cigar/tobacco stores stricken for consideration and adoption on second reading.

RECOMMENDATION: Approval

**EXHIBITS: Exhibit 1 Ordinance.
Exhibit 2 Consultants Report and Proposed Uses.
Exhibit 3 Resolution & NOI (Notice of Intent).
Exhibit 4 Planning and Zoning meeting minutes.**

FISCAL IMPACT AND APPROPRIATION OF FUNDS: N/A

Amount \$ _____ Acct # _____
 Transfer of funds required From Acct # _____

Town Attorney review required
 Yes No

Town Manager Initials CB

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ORDINANCE 2010-15

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

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

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

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

23 **WHEREAS**, the Planning and Zoning Board, sitting as the Local Planning Agency, has
24 reviewed the Code revisions contained in this Ordinance at a duly noticed hearing on September
25 15, 2010, and recommended their adoption; and

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

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

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

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

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

37
38 (a) *Area affected.*

39 The area to be affected by the provisions of this subdivision is Lots 50, 51, 52 and
40 53, fronting on Bougainvillea Drive and Lots 55, 56, 57 and 58, fronting on Poinciana
41 Street, all in Block 28, Town of Lauderdale-By-The-Sea, according to the plat thereof as
42 recorded in Plat Book 6, page 2, of the public records of Broward County, Florida.

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

44
45 (1) Definitions.

46
47 A. "Restaurant," for the purposes of this subdivision, is any
48 establishment where facilities are provided for preparing and serving food to the
49 public.

50 B. For the purpose of this section, the definition of motorized scooter
51 and the definition of moped shall be as set forth in Florida Statutes Section
52 316.003.

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

56 A. antiques store,

57 B. art galleries,

58 C. arts & crafts supply store,

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

60 ~~automotive parts & supplies store,~~

61 E. bait and tackle shop,

62 F. bakery,

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

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

108 RR. market, grocery/food store/supermarket,
 109 SS. massage therapist (licensed therapist to be on premises at all times
 110 of operation),
 111 TT.meat and poultry store,
 112 UU. medical supplies sales,
 113 VV. motorized scooter or moped sales and rentals,
 114 WW. museum,
 115 XX. music/musical instrument store,
 116 YY. office building,
 117 ZZ.optical store,
 118 **paint/wallpaper store,**
 119 AAA. party supply store,
 120 BBB. personnel services,
 121 CCC. photographic studio,
 122 DDD. police and fire substation,
 123 EEE. **radio electronic** repair and sales,
 124 FFF. restaurant, including sidewalk cafés which would be appurtenant
 125 to, and a part of, a restaurant,
 126 GGG. seafood store,
 127 HHH. shoe sales and repair,
 128 III. shop for making articles sold at retail on the premises,
 129 JJJ. specialty shop,
 130 KKK. sporting goods store,
 131 LLL. studios for artists/photographers and musicians (including
 132 recording studios),
 133 MMM. sundries,
 134 NNN. tailor/dressmaking store, direct to the customer,
 135 OOO. tapes/videos/music cd stores,
 136 PPP. tool rental (small tools and equipment, indoor display only).
 137 QQQ. toy/game store,
 138 RRR. trade/business school,
 139 SSS. travel agency,
 140 TTT. veterinarian or animal grooming with all activities enclosed
 141 within the building with no outside noise, and
 142 UUU. watch and jewelry repair,;
 143 **VVV.** **Drive-through services that are accessory to a use in this**
 144 **zoning district shall be allowed only as a conditional use**
 145 **requiring Planning and Zoning Board review and Town**
 146 **Commission approval, provided that any approval of the drive-**
 147 **through use by the Town Commission shall specifically establish**
 148 **the location and traffic flow pattern of the drive through.**
 149 **WWW.** **Uses not listed. Any use not covered by the above list**
 150 **may be authorized in the B-1-A district by the Town Manager or**
 151 **designee only if the proposed use is similar to a listed use;**
 152 **otherwise, an amendment to this chapter is required. The Town**

153 Manager or designee shall consult with the Town Commission on
154 any proposal to find that a use is similar, prior to authorizing
155 such use in the B-1-A district.
156

157 ~~construction shall be limited to one building on B-1-A lots 50 feet or less in~~
158 ~~width. Restaurant for the purposes of this subdivision, is any establishment where~~
159 ~~facilities are provided for preparing and serving food to the public.~~
160

161 (2) *Height.* No building shall be erected to a height greater than two stories on
162 single 25-foot lots, nor greater than three stories on 50-foot lots.
163

164 (3) *Areas.* No building which is used for residence purposes above the ground
165 floor shall occupy an area greater than 70 percent of the entire lot. The
166 required lot area per apartment or kitchen unit shall be 800 square feet.
167 The required floor area for a kitchen unit shall be not less than 250 square
168 feet minimum and the area for a hotel room with bath shall not be less
169 than 200 square feet. Buildings ~~requiring light and ventilation, but~~ not
170 used for residential purposes, shall not occupy more than 90 percent of the
171 lot area.
172

173 (4) *Residences.* All residences constructed in B-1-A districts shall conform to
174 requirements for RS-5 districts hereinafter provided and all apartments,
175 hotels, or rental units constructed in B-1-A districts shall conform to
176 requirements for RM-25 districts, hereinafter provided.
177

178 (5) *Design.* Construction shall be limited to one building on B-1-A lots that
179 are 50 feet or less in width. All business buildings constructed in a
180 business district shall be of C.B.S. construction and shall be designed with
181 every practical consideration for appearance, fire protection, health, light,
182 air, ~~and a~~ All plans and specifications of the building shall be approved by
183 the Town Building Inspector. The Building Inspector need not approve
184 design and use of a building and may ask the Town staff, Planning and
185 Zoning Board or the Board of Adjustment for an official opinion or
186 decision thereon. Open fronts are specifically prohibited in B-1-A districts
187 and there shall be a maximum opening of ten feet by ten feet for doorways
188 in each business building.
189

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

191 follows:

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

193 The following part of the Town of Lauderdale-By-The-Sea is zoned as B-1
194 district: All of Blocks 5, 6, 13, 14, 20, 21, east half of Block 19 and Lots 18 and 19 of

195 Block 28, according to the plat thereof recorded in Plat Book 6, page 2, of the public
196 records of Broward County. The following part of the platted area of Unit "A" of the
197 inclusive subdivision known as Silver Shores is zoned as B-1 district: All of Blocks A, B,
198 C, D, E, F, G, and Lot 1 of Block 2. The following part of the platted area of Unit "B" of
199 the inclusive subdivision known as Silver Shores is zoned as B-1 district: All of blocks H,
200 J, K, L, M and Lot 1 of Block 14, according to the plat thereof recorded in Plat Book 31,
201 of the public records of Broward County.

202 (a) *Uses.*

203

204

(1) Definitions.

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

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

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

- 214 A. antiques store,
- 215 B. art galleries,
- 216 C. arts & crafts supply store,
- 217 D. automobile rental or leasing agencies (no outdoor display),
- 218 automotive parts & supplies store,
- 219 E. bait and tackle shop,
- 220 F. bakery,
- 221 G. beauty schools, barber shops and hair salons,
- 222 H. bicycle rental shop with no outside storage,;
- 223 I. book store,
- 224 J. business and professional employment agency,
- 225 K. camera and photographic supply store,
- 226 L. card and stationery store,
- 227 M. catering businesses,
- 228 N. church and place of worship,
- 229 cigar/tobacco store,
- 230 O. clothing,
- 231 P. coin-operated dry cleaning and laundry and/or pickup station,
- 232 Q. community theaters, dinner theaters and cultural centers,;
- 233 R. computer/software store,
- 234 consignment/thrift store,
- 235 S. convenience store,
- 236 T. cooking schools,

237 U. copy center,
 238 V. courier service,
 239 W. delicatessen,
 240 X. dental laboratory,; and
 241 Y. drug (store)/pharmacy (no on-site prescription writing for controlled
 242 substances identified in Schedule II, III, or IV in Sections 893.03, 893.035, or
 243 893.0355, Florida Statutes),
 244 **electric supply,**
 245 Z. fabric/needlework/yarn shop,
 246 AA. fishing pier,
 247 **flooring store,**
 248 BB. florist shop,
 249 CC. formal wear sales and rental,
 250 DD. fruit and produce store,
 251 **funeral home,**
 252 EE. furniture,
 253 FF. gift shop,
 254 GG. government administration,
 255 HH. grocery/food store/supermarket,
 256 II. hardware,
 257 JJ. health and fitness center,
 258 **home improvement center,**
 259 KK. household appliances store,
 260 LL. ice cream/yogurt store,
 261 MM. interior decorator,
 262 NN. jewelry store,
 263 OO. library branch,
 264 PP. linen/bath/bedding store,
 265 QQ. luggage/handbag/leather goods store,
 266 RR. mail/postage/fax service,
 267 SS. marine parts and supplies store,
 268 TT. market,
 269 UU. massage therapist (licensed therapist to be on premises at all times of
 270 operation),
 271 VV. meat and poultry store,
 272 WW. medical supplies sales,
 273 XX. motorized scooter sales or moped sales and rentals (indoor only, outdoor
 274 sales, storage or display prohibited),
 275 YY. museum,
 276 ZZ. music/musical instrument store,
 277 AAA. office building,
 278 BBB. optical store,
 279 **paint/wallpaper store,**
 280 CCC. party supply store,
 281 DDD. personnel services,
 282 EEE. photographic studio,

- 283 FFF. police and fire substation,
- 284 GGG. radio electronic repair and sales,
- 285 HHH. restaurant, including sidewalk cafés which would be appurtenant to, and a
- 286 part of, a restaurant,
- 287 III. seafood store,
- 288 JJJ. shoe sales and repair,
- 289 KKK. shop for making articles sold at retail on the premises,
- 290 LLL. specialty shop,
- 291 MMM. sporting goods store,
- 292 NNN. studios for artists/photographers and musicians (including recording
- 293 studios),
- 294 OOO. sundries,
- 295 PPP. tailor/dressmaking store, direct to the customer,
- 296 QQQ. tapes/videos/music cd stores,
- 297 RRR. tool rental (small tools and equipment, indoor display only),
- 298 SSS. toy/game store,
- 299 TTT. trade/business school,
- 300 UUU. travel agency,
- 301 VVV. veterinarian or animal grooming with all activities enclosed within the
- 302 building with no outside noise,
- 303 WWW. watch and jewelry repair, and
- 304 XXX. construction shall be limited to one on B-1-A lots 50 feet or less in width.
- 305 Drive-through services that are accessory to a use in this zoning district shall be
- 306 allowed only as a conditional use requiring Planning and Zoning Board review
- 307 and Town Commission approval, provided that any approval of the drive-through
- 308 use by the Town Commission shall specifically establish the location and traffic
- 309 flow pattern of the drive through. "Restaurant," for the purposes of this
- 310 subdivision, is any establishment where facilities are provided for preparing and
- 311 serving food to the public in an enclosed building. For the purpose of this section
- 312 the definition of motorized scooter and the definition of moped shall be as set
- 313 forth in F.S. ch. 316. All motorized scooter or moped sales and rental activity
- 314 shall occur indoors and the outdoor display or storage of scooters, mopeds, or
- 315 accessories shall be prohibited.
- 316 YYY. Uses not listed. Any use not covered by the above list may be
- 317 authorized in the B-1 district by the Town Manager or designee only if the
- 318 proposed use is similar to a listed use; otherwise, an amendment to this
- 319 chapter is required. The Town Manager or designee shall consult with the
- 320 Town Commission on any proposal to find that a use is similar, prior to
- 321 authorizing such use in the B-1 district.

322

323 (b) *Height.*

324

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

326 greater than three stories on 50-foot lots.

327

328 (c) *Areas.*

329 No building which is used for residence purposes above the ground floor shall occupy an
330 area greater than 70 percent of the entire lot. The required lot area per apartment or
331 kitchen unit shall be 800 square feet. The required floor area for a kitchen unit shall not
332 be less than 250 square feet minimum and the area for a hotel room with bath shall not be
333 less than 200 square feet. Buildings ~~requiring light and ventilation, but~~ not used for
334 residential purposes; shall not occupy more than 90 percent of the lot area.
335

336
337 (d) *Residences.*

338
339 All residences constructed in B-1 or RD-10 districts shall conform to requirements for
340 RS-5 districts hereinafter provided and all apartments, hotels, or rental units constructed
341 in B-1 districts shall conform to requirements for RM-25 districts, hereinafter provided.
342

343 (e) *Design.*

344
345 Construction shall be limited to one on B-1-A lots 50 feet or less in width. All
346 business buildings constructed in a business district shall be of C.B.S. construction and
347 shall be designed with every practical consideration for appearance, fire protection,
348 health, light, air, ~~and a~~All plans and specifications of the building shall be approved by
349 the Town Building Inspector. The Building Inspector need not approve design and use of
350 a building and may ask the Town staff, Planning and Zoning Board or the Board of
351 Adjustment for an official opinion or decision thereon. Open fronts are specifically
352 prohibited in B-1 districts and there shall be a maximum opening of ten feet by ten feet
353 for doorways in each business building.
354

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

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

360 **SECTION 6. Codification.** This Ordinance shall be codified.

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

363 **SECTION 8. Adoption.** Passed on the first reading, this ___ day of _____,
364 2010.

365 Passed and adopted on the second reading, this ___ day of _____, 2010.

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Mayor Roseann Minnet

First Reading

Second Reading

Mayor Minnet

Vice-Mayor Dodd

Commissioner Clotney

Commissioner Sasser

Commissioner Vincent

Attest:

Town Clerk, June White, CMC

(CORPORATE SEAL)

Approved as to form:

Susan L. Trevarthen, Town Attorney