~~D.2.B.~~
2M

ORDINANCE 2009-35

AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA AMENDING CHAPTER 30 "UNIFIED LAND DEVELOPMENT REGULATIONS," ARTICLE V "ZONING," DIVISION 2 "DISTRICTS," SUBDIVISION L "SUPPLEMENTAL REGULATIONS," SECTION 30-313 "GENERAL PROVISIONS" OF THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

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

WHEREAS, the Town Commission desires to remove the prohibition on swimming pools, hot tubs and spas being constructed within the front yard setback; and

WHEREAS, the Town Commission desires to allow fencing and enclosures within the front yard setback provided such structures do not encroach or impede upon the sight distance triangle; and

WHEREAS, the Planning and Zoning Board, sitting as the Local Planning Agency, has reviewed this Ordinance at a duly noticed hearing on November 11, 2009, and recommended its approval; and

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

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

SECTION 1. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true, correct and reflective of the legislative intent underlying this Ordinance and are hereby made a specific part of this Ordinance.

SECTION 2. Chapter 30 "UNIFIED LAND DEVELOPMENT REGULATIONS," Article V "Zoning," Division 2 "Districts," Subdivision L "Supplemental Regulations," Section 30-313 "General provisions," is hereby amended as follows:

Sec. 30-313. General provisions.

* * * * * * * *

(29) Swimming pools, decks, patios, hot tubs and spas; setbacks and enclosure required. ~~No swimming pool, hot tub or spa shall be constructed within a front yard setback.~~ Swimming pools, hot tubs and spas shall have the following minimum setback regulations:

a. All water bearing wall surfaces shall have a minimum five-foot setback from the ~~side and rear~~ property lines.

b. All water bearing wall surfaces shall have a minimum ten-foot setback from any public right-of-way.

c. Notwithstanding any other regulation of this Code, fencing to enclose a swimming pool, hot tub or spa is permitted in front setback, but shall not encroach upon the sight distance triangle created in section 30-124(a)(8) of the Code.

All swimming pools shall be enclosed by an open mesh screen enclosure or a fence of wall a minimum of five feet in height of such design and material as will prevent unauthorized access to the pool area. All screen doors and fence gates shall be equipped with a self-locking mechanism.

Swimming pools or spas on lots that directly abut a waterway or other water area shall not require enclosure along such waterway or water area.

Screen enclosures, pool decks, patios, porches and terraces shall be permitted in any ~~the~~ required ~~side~~ yard ~~or rear yard only~~ and shall not be located less than 2 1/2 feet from plot

lines. In addition, the location of screen enclosures, pool decks, patios, porches and terraces will need to be located outside of any utility easement areas unless the property owner obtains consent from the applicable utility(s) to allow any of these structures in the easement area.

* * * * * * * *

SECTION 3. Severability.

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

SECTION 4. Effective Date.

This Ordinance shall become effective immediately upon passage on second reading.

SECTION 5. Codification.

This Ordinance shall be codified.

SECTION 6. Adoption.

Passed on the first reading, this ____ day of _____, 2009.

Passed on the second reading, this ____ day of _____, 2009.

_____
Mayor Roseann Minnet

	First Reading	Second Reading
Mayor Minnet	_____	_____
Vice-Mayor McIntee	_____	_____
Commissioner Clottey	_____	_____
Commissioner Silverstone	_____	_____
Commissioner Dodd	_____	_____

Attest:

_____
Town Clerk, June White

(CORPORATE SEAL)

Approved as to form:

_____
Town Attorney, Susan L. Trevarthen

b. Ordinance 2009-35:AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA AMENDING CHAPTER 30 "UNIFIED LAND DEVELOPMENT REGULATIONS," ARTICLE V "ZONING," DIVISION 2 "DISTRICTS," SUBDIVISION L "SUPPLEMENTAL REGULATIONS," SECTION 30-313 "GENERAL PROVISIONS" OF THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

Attorney Trevarthen read Ordinance 2009-35 by title. She requested a typo in the existing ordinance to be changed on line 57 as the word "of" should be "or".

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

Mayor Minnet noted that the Planning and Zoning Board previously failed the Ordinance 4-0. She understood the Ordinance as to be for corner lots only and not for front yards. Mayor Minnet believed the Commission should review and discuss the Ordinance before making a decision. Mayor Minnet pointed out that line 23 stated that Planning and Zoning approved front yard swimming pools.

Commissioner Dodd supported Planning and Zoning and believed there was a miscommunication. Commissioner Dodd made a motion to postpone until Planning and Zoning had time to review the issues. The motion failed for lack of a second.

Commissioner Silverstone said at one time the Town allowed it and currently did not. He believed it should be written to conform to what there was before. Commissioner Silverstone understood it was in relation to corner lots.

Vice Mayor McIntee said the Ordinance was to allow a pool in corner lots if it maintained the strict rules.

Vice Mayor McIntee made a motion to defer to the June 22, 2010 Commission meeting. Commissioner Clottey seconded the motion. The motion carried 5 - 0.