



# TOWN OF LAUDERDALE-BY-THE-SEA

## AGENDA ITEM REQUEST FORM

**Town Manager's Office**

**Bud Bentley**

Department Submitting Request

Interim Assistant Town Manager JB

<u>Commission Meeting Dates</u>	<u>Last date to turn in to Town Clerk's Office</u>	<u>Commission Meeting Dates</u>	<u>Last date to turn in to Town Clerk's Office</u>	<u>Commission Meeting Dates</u>	<u>Last date to turn in to Town Clerk's Office</u>
<input type="checkbox"/> May 25, 2010	May 14 (5:00 p.m.)	<input checked="" type="checkbox"/> July 27, 2010	July 16 (5:00 p.m.)	<input type="checkbox"/> Oct 26, 2010	Oct 15 (5:00 p.m.)
<input type="checkbox"/> June 8, 2010	May 28 (5:00 p.m.)	<input type="checkbox"/> Aug 24 2010*	Aug 13 (5:00 p.m.)	<input type="checkbox"/> Nov 9, 2010	Oct 29 (5:00p.m.)
		<input type="checkbox"/> Sept 14, 2010	Sept 3 (5:00 p.m.)		

  

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

**NATURE OF AGENDA ITEM**

**SUBJECT TITLE: Ordinance amending Chapter 10 of the Town Code to establish regulations for the collection of solid waste from mixed-use properties and to change the term "discontinuation" to "suspension."**

**EXPLANATION:** In the past year, the Town Commission has received requests to change some of the Town's solid waste policies. The Commission appointed Commissioner Sasser as its liaison to evaluate the requests and to work with staff and the Town's franchisee on the development of recommendations to the Commission. As Commissioner Sasser reported at the July 13<sup>th</sup> Commission meeting, a recommendation is ready to present to the Commission regarding mixed-use properties. The Commission agreed to consider the amending ordinance at its meeting of July 27, 2010.

The attached ordinance (**Exhibit 1**) accomplishes the following:

- Mixed-Use Properties.** Regulations are established for mixed use properties so residential users and commercial properties can share containers in certain conditions. These regulations encourage the owner or single tenant of a property to manage their waste stream. It has the potential to save the property owner or tenants money and reduce the number of containers on a property.
- Temporary Discontinuation of Service.** We have restructured this section to improve how we administer the suspension process. The first change was to replace the word "discontinuation" with "suspension." The other changes make it easier for our customers to file the necessary paperwork and eliminate the need to file a second time for the same suspension period if it goes beyond September 30 of any year.

**RECOMMENDATION: Approve the Ordinance on First Reading.**

**EXHIBITS: Exhibit 1 – Proposed Ordinance**

07-21-10P01:24 RCVD

**FISCAL IMPACT AND APPROPRIATION OF FUNDS:**

- Improved efficiencies in the processing of suspension of service requests.
- Saving to mixed-use property owners or tenants.

Town Attorney review required  
 Yes     No

Town Manager's Initials: CB

1 AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-  
2 THE SEA, AMENDING ARTICLE II, "CONTAINERS AND  
3 RECEPTACLES" OF CHAPTER 10 "GARBAGE AND  
4 REFUSE" OF THE TOWN CODE OF ORDINANCES, IN  
5 ORDER TO SPECIFY SERVICE TO MIXED USE  
6 PROPERTIES AND TO REVISE SUSPENSION OF  
7 SERVICE; PROVIDING FOR SEVERABILITY, CONFLICT  
8 AND AN EFFECTIVE DATE  
9

10 WHEREAS, the Town Commission of the Town of Lauderdale-by-the-Sea seeks to amend  
11 its Code of Ordinances to specify how mixed use properties will received solid waste collection and  
12 hauling services, and to revise provisions related to discontinuation of service.

13 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF  
14 THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AS FOLLOWS:  
15

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

19 **SECTION 2. Amendment.** Section 10-27 "Required" of Article II "Containers and  
20 Receptacles" of Chapter 10 "Garbage and Refuse" is hereby amended as follows:

21 **Sec. 10-27 - Required.**

22  
23 (a) Generally.

24  
25 (1) Franchise. The Town has granted a franchise fee for solid waste collection. All  
26 property owners in the Town shall dispose of solid waste by service through the Town's  
27 franchisee except as otherwise allowed by law, and shall be required to show proof of same prior  
28 to the issuance of an business tax receipt by the Town or the issuance of any other permit or  
29 approval; or such proof may be required to be shown to any Town employee upon request by  
30 such Town employee.  
31

32 (2) Containers. Every property owner, lessee or tenant shall provide and maintain in  
33 good condition a watertight garbage container sufficient in size and capacity to serve each  
34 dwelling with not less than twice-weekly service. No container may be used other than a  
35 container approved by and/or obtained from the Town's authorized solid waste collection  
36 franchisee. Residents of duplex units may share a common container provided it is of sufficient  
37 size to accommodate the joint usage without spillover.  
38

ORDINANCE 2010-10

39           (3) Avoidance unlawful. It shall be unlawful for any person or entity to place or cause to  
40 be placed solid waste on the property of another for the purpose of avoiding the provisions of  
41 this subchapter.

42  
43 (b) Options for Mixed Use Properties.

44  
45           (1) Definitions. The following terms are defined for purposes of this subsection only:

46                   i. Mixed-use property is defined as a property, which may contain more than one  
47 parcel or premises, containing both residential and non-residential uses. The non-  
48 residential uses shall not involve food sales or service.

49  
50  
51           (2) Small mixed-use property option. The property owner or the single tenant of a  
52 mixed-use property with a total area of 6,000 square feet or less may arrange for a residential  
53 container that will also serve the non-residential use(s). Such owner or tenant shall be charged  
54 the residential container rate in those cases where the garbage from the entire property can be  
55 accommodated in one residential container, without spillover. In the event an additional  
56 container(s) is (are) required, it (they) shall be provided at the commercial container rate  
57 applicable to similar volumes of garbage. Bulk waste pickup shall be provided for the residential  
58 use only, which shall not exceed two (2) cubic yards monthly, upon request at the next regularly  
59 scheduled pickup.

60  
61           (3) Large mixed-use property option.

62                   i. Property owners. The property owner of a mixed-use property in excess of a  
63 total area of 6,000 square feet may arrange for a single or multiple commercial  
64 containers that will also serve the residential use of the property, if the  
65 container(s) is (are) of sufficient size to accommodate the joint usage without  
66 spillover. Such owner shall be charged the commercial container rate. Bulk waste  
67 pickup shall be provided for the residential use only, which shall not exceed two  
68 (2) cubic yards monthly upon request at the next regularly scheduled pickup.

69  
70                   ii. Tenants. The tenant of a mixed-use property in excess of a total area of 6,000  
71 square feet, who leases both non-residential space and a residential dwelling on  
72 the property, may arrange for a single commercial container to serve both his or  
73 her residential and non-residential garbage disposal needs, if the container is of  
74 sufficient size to accommodate the joint usage without spillover. Such owner  
75 shall be charged the commercial container rate. Bulk waste pickup shall be  
76 provided for the residential use only, which shall not exceed two (2) cubic yards  
77 monthly upon request at the next regularly scheduled pickup.  
78

ORDINANCE 2010-10

79  
80           **SECTION 3. Amendment.** Section 10-32 “Temporary discontinuation of service” of  
81 Article II “Containers and Receptacles” of Chapter 10 “Garbage and Refuse” is hereby amended  
82 as follows:

83 **Sec. 10-32. - Temporary ~~discontinuation~~ suspension of service.**

84  
85           Solid waste services to single-family residences may be ~~discontinued~~ suspended for a  
86 single period of not less than three consecutive months ~~in any fiscal year (October 1—September~~  
87 ~~30)~~ provided if:

88  
89           (1) The property is not occupied during any portion of the period that service is  
90 suspended ~~discontinued~~; and

91  
92           (2) The property owner has provided written notice to ~~the Town~~ and the Town's  
93 franchisee on a form authorized by the Town; and

94  
95           (3) The form request referenced above is filed with the Town franchisee no less than 31  
96 days prior to the start of the requested period of suspension; and discontinuation.

97  
98           (4) The property owner provides not less than fifteen (15) days’ notice to the Town's  
99 franchisee of the date to resume service.

100  
101 The property shall be credited for the period that service is suspended.

102  
103           **SECTION 4. Codification.** This Ordinance shall be codified in accordance with the  
104 foregoing.

105           **SECTION 5. Severability.** If any section, sentence, clause, or phrase of this Ordinance is  
106 held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall  
107 in no way affect the validity of the remaining portions of this Ordinance.

108           **SECTION 6. Conflicts.** All prior ordinances or resolutions or parts thereof in conflict  
109 herewith are hereby repealed to the extent of such conflict.

110           **SECTION 7. Effective Date.** This Ordinance shall become effective immediately upon  
111 its passage and adoption on second reading.

112           Passed on the first reading, this \_\_\_ day of \_\_\_\_\_, 2010.

**ORDINANCE 2010-10**

113 Passed and adopted on the second reading, this \_\_\_ day of \_\_\_\_\_, 2010.

114  
115  
116  
117  
118

\_\_\_\_\_  
MAYOR ROSEANN MINNET

119  
120  
121  
122  
123  
124

First Reading	Second Reading
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

125  
126  
127  
128

ATTEST:

129 \_\_\_\_\_

130 June White, Town Clerk

131  
132  
133  
134  
135  
136

APPROVED AS TO FORM:

\_\_\_\_\_  
Susan L. Trevarthen, Town Attorney