



TOWN OF LAUDERDALE-BY-THE-SEA

AGENDA ITEM REQUEST FORM

Town Manager's Office

Bud Bentley

Department Submitting Request

Interim Assistant Town Manager

<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 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 checked="" type="checkbox"/> Aug 25 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.)		

NATURE OF AGENDA ITEM	<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

SUBJECT TITLE: Second Reading of an 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. At its meeting of July 27, 2010, the Commission approved the proposed ordinance (Exhibit 1) on first reading.

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.

The attached Ordinance included two recommended amendments:

- On page 3, line 87 delete the word "single". It was previously used to limit a suspension to a single period in a fiscal year. With the change approved in this section on first reading, "single" is no longer needed.
- On page 4, line 113 and 114, the effective date of the ordinance is recommended to be changed from immediately upon adoption to Monday, September 13, 2010, which allows Choice reasonable time to implement.



RECOMMENDATION: Approve the Ordinance as Amended on Second Reading.

EXHIBITS: Exhibit 1 – Proposed Ordinance with amendments

FISCAL IMPACT AND APPROPRIATION OF FUNDS:

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

Town Attorney review required

Yes No

Town Manager's Initials: CA

ORDINANCE 2010-10

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

111

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112

113 **SECTION 7. Effective Date.** This Ordinance shall become effective on September 15,

114 2010.

115 Passed on the first reading, this ___ day of _____, 2010.

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

117

118

119

120

121

MAYOR ROSEANN MINNET

122

First Reading

Second Reading

123 Mayor Minnet

124 Vice-Mayor Dodd

125 Commissioner Clotey

126 Commissioner Sasser

127 Commissioner Vincent

128

129 ATTEST:

130

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133 _____
June White, Town Clerk

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135 APPROVED AS TO FORM:

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139 _____
Susan L. Trevarthen, Town Attorney