

ORDINANCE 2017-03

AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 30, UNIFIED LAND DEVELOPMENT REGULATIONS, OF THE CODE OF ORDINANCES, BY AMENDING ARTICLE II, “DEVELOPMENT REVIEW” TO REVISE FLEXIBILITY RULES FOR RESIDENTIAL UNITS ON PROPERTIES DESIGNATED FOR COMMERCIAL LAND USE; AND BY AMENDING THE BUSINESS DISTRICTS TO REVISE DEVELOPMENT REQUIREMENTS, REORGANIZE THE SECTIONS, ADD NEW CONDITIONAL USES, ADDRESS REQUIREMENTS FOR MIXED USE DEVELOPMENT AND MOVE RELEVANT SUBSECTIONS TO SECTION 30-11, “DEFINITIONS” AND SECTION 30-313, “GENERAL PROVISIONS”; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE

1 **WHEREAS**, the Town Commission recognizes that changes to the adopted Code of
2 Ordinances are periodically necessary in order to ensure that the Town’s regulations are current
3 and consistent with the Town’s planning and regulatory needs; and

4 **WHEREAS**, the Town desires to provide the flexibility to allow mixed use development
5 in certain portions of the B-1 and B-1-A, Business Zoning Districts; and

6 **WHEREAS**, the Town recognizes that call centers generate a unique level and type of
7 activity and should be regulated as conditional uses to ensure that if allowed, the use can be
8 adequately accommodated without generating adverse impacts on services and land uses within
9 the immediate vicinity; and

Exhibit 1

11 **WHEREAS**, the Town Commission has determined that it is in the best interests of the
12 citizenry and general public to provide appropriate zoning regulations for mixed use
13 development to ensure that the location and development standards are compatible with
14 surrounding businesses and consistent with the Comprehensive Plan; and

15 **WHEREAS**, the Town desires to reorganize conditional use requirements in the business
16 districts for consistency and ease of reference; and

17 **WHEREAS**, the Planning and Zoning Board, sitting as the Local Planning Agency, has
18 reviewed the contents of this Ordinance at a duly noticed public hearing on December 15, 2016,
19 and recommended approval of the amendments with certain revisions that have been
20 incorporated into this ordinance; and

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

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

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

¹ Additions to the text are shown in underline. Deletions to the text are shown in ~~striketrough~~. Additions subsequent to first reading are shown in double underline. Deletions subsequent to first reading are shown in ~~double striketrough~~.

Exhibit 1

SECTION 2. Amendment. Chapter 30, Unified Land Development Regulations of the Code of Ordinances, Article I, In General, Division 1, Introduction, is hereby amended as follows:

Chapter 30 - UNIFIED LAND DEVELOPMENT REGULATIONS

* * *

ARTICLE I. – IN GENERAL

* * *

DIVISION 1. - INTRODUCTION

* * *

Sec. 30-11. - Definitions.

* * *

(c) *Abbreviations and definitions.*

* * *

(2) *Terms defined.*

Call center. A centralized business office with more than four employees, which office is used for the purpose of receiving and transmitting requests by telephone or operated by a company to administer incoming product support or information inquiries from consumers. Includes incoming or outgoing calls for, but not limited to, telemarketing, clientele, product services and debt collection.

* * *

Mixed-use building. A multistory building, with at a minimum, the ground floor devoted to non-residential use(s) and one additional floor devoted to residential use(s).

* * *

Non-residential use. Neighborhood-serving retail, service, commercial or other uses allowed in the relevant zoning district, excluding residential uses.

* * *

Short Term Rental. Any individually or collectively owned dwelling unit or group of dwelling units that is rented to guests more than three (3) times in a calendar year for periods of less than thirty (30) days or one (1) calendar month, whichever is less, or which is

Exhibit 1

advertised or held out to the public as a place regularly rented to guests, but that is not a timeshare project, where such unit or units are in:

- a. a duplex/two-family dwelling;
- b. a multifamily dwelling of 3 or 4 dwelling units; or
- c. a mixed use development with 1 to 4 dwelling units.

* * *

Storefront. The street-level portion of a business building front that includes display window(s) or transparent entrance(s). The detailing and proportions distinguish the design of a storefront from the appearance of the upper portions of the building.

* * *

SECTION 2. Amendment. Chapter 30, Unified Land Development Regulations of the Code of Ordinances, Article II, Development Review, Division 3, Flexibility Rules, is hereby amended as follows:

Chapter 30 - UNIFIED LAND DEVELOPMENT REGULATIONS

* * *

ARTICLE II. – DEVELOPMENT REVIEW

* * *

DIVISION 3. – Flexibility Rules

Sec. 30-100. - Flexibility rules.

- (a) Flexibility rules allow the Town to revise and rearrange land uses within a flexibility zone and allow the development of residential dwelling units on properties designated for commercial land use in the Broward County Land Use Plan, without requiring an amendment to that designation.

(1) Definitions.

- a. *Flexibility zones:* Flexibility zones are fixed geographic areas within the Town, designated on the Broward County Land Use Plan, which provide limits on the number of additional dwelling units and additional commercial acreage which may be permitted by the Town's comprehensive plan.
- b. *Flexibility units:* Flexibility units are the total number of additional residential dwelling units permitted by the Broward County Land Use Plan above the total

Exhibit 1

number of dwelling units allowed within the same flexibility zone by the Town's comprehensive plan.

(2) *Determination of available flexibility units.* The Town Manager or designee shall maintain a log of the number of available flexibility units in each flexibility zone, the number of flexibility units assigned to parcels within each zone and within the Town, and the reason for assigning flexibility units to a parcel.

(3) *Assignment of flexibility units.* If a sufficient number of flexibility units are available, the Town may allocate flexibility units for mixed use development in the B-1 or B-1-A zoning district, as provided in sections 30-261 and 30-271(g). ~~Mixed-use development~~, provided that the County's flexibility rules and regulations are met and all other applicable requirements of chapter 30 of the Code are met.

SECTION 3. Amendment. Chapter 30, Unified Land Development Regulations of the

Code of Ordinances, Article V, Zoning, Division 2, Districts, is hereby amended as follows:

Chapter 30 - UNIFIED LAND DEVELOPMENT REGULATIONS

* * *

ARTICLE V. – ZONING

* * *

DIVISION 2. - DISTRICTS

* * *

Subdivision G. - B-1-A District Regulations

* * *

Sec. 30-261. - B-1-A district—Business.

(a) *B-1-A uses permitted.*

* * *

(2) *Conditional uses.* The following conditional uses may be permitted upon approval pursuant to the conditional use procedures of this Code:

* * *

e. Convenience store, subject to the requirements as set forth in subsection (i), below.

* * *

Exhibit 1

h. Medical marijuana retail center, subject to the requirements as set forth in subsection (ik) below.

i. Mixed Use, subject to the requirements as set forth in subsection (i) below.

ji. "Paid private parking" on parcels with a primary use, excluding standalone parking lots, subject to the requirements as set forth in subsection (il) below.

[NOTE TO CODIFIER, please reletter remainder of section accordingly]

* * *

(b) *Height.* No building shall be erected to a height greater than two stories on ~~single 25-foot~~ lots ~~less than 50 feet in width~~, nor greater than three stories on ~~any other 50-foot~~ lots. Lots which are adjacent may be combined and developed as one parcel, and may utilize the wider lot height restrictions if a joinder of the lots under a unity of title or covenant-in-lieu is provided in a form acceptable to the Town Attorney.

(c) *Lot coverageAreas.* ~~No building which is used for residence purposes above the ground floor shall occupy an area greater than 70 percent of the entire lot. The required lot area per apartment or kitchen unit shall be 800 square feet. The required floor area for a kitchen unit shall be not less than 250 square feet minimum and the area for a hotel room with bath shall not be less than 200 square feet. Buildings not used for residential purposes shall not occupy more than 90 percent of the lot area.~~

(d) *Design.*

(1) Construction shall be limited to one building on ~~B-1-A~~ lots that are 50 feet or less in width.

(2) All ~~business~~ buildings ~~constructed in a business district~~ shall be of C.B.S. construction, ~~and shall be designed with every practical consideration for appearance, fire protection, health, light, air. All plans and specifications of the building shall be approved by the Town Building Inspector. The Building Inspector need not approve design and use of a building and may ask the Town staff, Planning and Zoning Board or the Board of Adjustment for an official opinion or decision thereon. Open fronts are specifically prohibited in B-1-A districts and there shall be a maximum opening of ten feet by ten feet for doorways in each business building.~~

(3) No parking spaces constructed after [THE EFFECTIVE DATE OF THIS ORDINANCE] shall be located along the primary street frontage and to the maximum extent feasible without losing required parking, as determined by the DSD, existing parking along the primary street frontage shall be removed from the primary street frontage for any redevelopment.

(4) Curbscuts providing access to parking areas shall be located on streets other than Commercial Boulevard, except where a property only has access from Commercial Boulevard, or it is determined based on a traffic study that access from Commercial Boulevard is necessary for safe and efficient vehicular and pedestrian circulation.

(5) Each structure shall have its own sustaining walls; party walls are prohibited.

Exhibit 1

- (6) There shall be at least one front entrance and one rear entrance to buildings.
- (7) There must be a ground floor storefront facing the primary street. If the property is a corner lot, there must be a ground floor storefront facing both streets.
- (8) Building facades on the second or third stories shall be physically and visually diverse, incorporating features such as balconies, alternate or varied setbacks, eyebrows or other artistic and architectural features on at least 40% of the linear frontage per story above the first. The DSD shall review and approve compliance with this criteria through the architectural review process, and may decrease the 40% standard by 10% if the DSD finds that such a change enhances the mid-century modern façade and remains consistent with the architectural design guidelines.
- (9) Building facades on the majority of the length of the first floor must incorporate architectural features such as eyebrows, awnings, canopies or other artistic and architectural features to create shade.

²(e) ~~Outside seating for restaurants, on private property other than a sidewalk, that is accessory to the primary restaurant use may be permitted subject to the following regulations:~~

- (1) ~~Permit required. It shall be unlawful for any person to provide outside seating for a restaurant on private property within the Town without first obtaining a permit from the Town. The location of an outside seating area for a restaurant shall be approved by the Town Manager or designee.~~
- (2) ~~Permit fee. A permit fee shall be established by resolution of the Town Commission.~~
- (3) ~~Permit application. Application for a permit to provide outside seating for a restaurant shall be made at the office of the Town Clerk. Such application shall include:~~
- ~~a. Name, address and telephone number of the applicant.~~
 - ~~b. Name and address of business.~~
 - ~~c. A copy of a valid Town of Lauderdale-By-The-Sea business tax receipt to operate a restaurant adjacent to the outside seating area which is the subject of the application.~~
 - ~~d. An eight and one half inches × 11 inches drawing at a minimum scale of one inch equals 20 feet showing the following:~~
 - ~~1. The store front and all openings (doors, windows);~~
 - ~~2. The location and dimensions of the private property area being utilized for the outside seating area, including: structures located thereon; proposed location, dimension and number of tables, chairs, and umbrellas proposed within the outside seating area;~~
 - ~~3. Clear delineation of the boundary between private property and the public right-of-way;~~

² This section has been moved to subsection (h). Changes from the original text are shown in that new location in strikethrough and underline.

Exhibit 1

- 208 4. ~~The location of tables and chairs complying with the Americans with~~
209 ~~Disabilities Act (ADA) standards.~~
- 210 e. ~~When the outside seating is visible from a public right-of-way, the~~
211 ~~application shall also include:~~
- 212 1. ~~Photographs and/or manufacturer brochures fully describing the~~
213 ~~appearance of all proposed chairs, tables, umbrellas and other private~~
214 ~~features, including but not limited to lighting to be used in the proposed~~
215 ~~outside seating area.~~
- 216 2. ~~A trash management and maintenance plan for the outside seating area,~~
217 ~~which shall include a plan for pickup and disposal of any trash or food~~
218 ~~on or around the tables and chairs or sidewalk, and periodic pressure~~
219 ~~cleaning of the area used for outside seating. This plan shall ensure that~~
220 ~~the outside seating area is maintained in a neat and orderly appearance~~
221 ~~at all times and the area shall be cleared of all debris on a periodic basis~~
222 ~~during the day and at the close of each business day to ensure a healthy~~
223 ~~and safe environment.~~
- 224 f. ~~Written consent from the building owner for the proposed outside seating~~
225 ~~area.~~
- 226 g. ~~In the event the outside seating area is proposed in front of an adjacent~~
227 ~~owner's property, the applicant must provide written consent from the~~
228 ~~adjacent property owner for use of this area.~~
- 229 h. ~~Non refundable application fee.~~
- 230 i. ~~Applications shall be reviewed for compliance with the Town Code and may~~
231 ~~be approved by the Town Manager or designee.~~
- 232 j. ~~The Town Manager or designee may deny an application that does not~~
233 ~~comply with this section. Such denials shall be written and shall provide the~~
234 ~~reasons for the denial. The applicant or any property owner whose property~~
235 ~~directly abuts the property which is the subject matter of the application may~~
236 ~~appeal the Town Manager or designee's decision to the Town Commission.~~
- 237 (4) ~~Location requirements. The location of an outside seating area for a restaurant shall~~
238 ~~be subject to the following locational regulations:~~
- 239 a. ~~An outside seating area shall only be permitted on private property that is:~~
- 240 1. ~~Adjacent to a licensed restaurant business to which the permit is issued;~~
241 ~~or~~
- 242 2. ~~Adjacent to another licensed business that is located within the same~~
243 ~~building as the licensed restaurant business to which a permit is issued.~~
- 244 b. ~~Tables and chairs shall not be located within a ten-foot proximity of bus~~
245 ~~stops, taxi stands, fire hydrants, a pedestrian crosswalk, driveway or handicap~~
246 ~~ramp.~~
- 247 c. ~~The Town Manager or designee may permit an exception to the distance~~
248 ~~requirement of subsection b. [above] from ten feet to five feet where~~
249 ~~established pedestrian and tram paths shall not be obstructed and where~~
250 ~~public safety shall not be adversely affected.~~

Exhibit 1

- d. — ~~Markers approved by the Town Manager or designee shall be embedded into the property by the applicant to distinguish the approved boundaries of the outside seating area. This requirement may be waived by the Town Manager or designee if the proposed outside seating area is not on or adjacent to any private or public sidewalk, parking or other pedestrian area.~~
- (5) — ~~Additional regulations for outside seating for a restaurant:~~
- a. — ~~The outside seating area shall be accessory to and under the same ownership or control as the primary restaurant which is operated within a permanently enclosed building located on the same or adjacent parcel.~~
- b. — ~~There shall be no use, operation, or playing of any musical instrument, loud speaker, sound amplifier, or other machine or device for the production or reproduction of sound in such a manner as to disturb the peace, quiet, or comfort of the neighboring inhabitants or at any time with louder volume than is otherwise regulated by Chapter 13, Noise, of the Town Code.~~
- c. — ~~Food preparation shall only occur in the fully enclosed area of the licensed primary restaurant.~~
- d. — ~~Hours of operation shall not exceed the hours of operation established for the principal licensed restaurant.~~
- e. — ~~All fabrics shall be fire retardant, pressure-treated or manufactured of fire resistive material.~~
- f. — ~~No objects shall be permitted around the perimeter of the outside seating area that is occupied by tables and chairs which would have the effect of forming a physical or visual barrier discouraging the use of a sidewalk by the general public.~~
- g. — ~~Additionally, when the outside seating area is visible from a public right of way:~~
1. — ~~No tables, chairs, or any other part of an outside seating area shall be permanently attached, chained, or in any manner affixed to any tree, post, sign or other fixtures, curb or sidewalk within or near the permitted area.~~
2. — ~~Tables, chairs, umbrellas, canopies, awnings, and any other objects utilized as part of the outside seating area shall be of quality design, materials, size, elevation and workmanship both to ensure the safety and convenience of users, and to enhance the visual quality of the urban environment. Design, materials and colors shall be approved by the Town Manager or designee prior to the issuance of the permit to allow the outside seating area.~~
- (6) — ~~Prior to issuance of a permit for an outside seating area, the Town Clerk shall certify that there are no outstanding fines, moneys, fees, taxes or other charges owed to the Town by the current or past owners or operators of the property requesting a permit for outside seating. A permit to allow outside seating will not be issued until all outstanding debts to the Town are paid in full.~~
- (7) — ~~Any primary restaurant which obtains a permit to have outside seating as an accessory use to a primary restaurant, pursuant to [sub]section 30 261(1) and (6)~~

Exhibit 1

may redesign the face of their establishment to allow for doors or panels that permit the establishment to have open sides allowing for an indoor/outside restaurant design. Any proposed alterations, modifications or changes to the building shall require the issuance of a building permit, compliance with the Town Code and payment in full of all applicable fees.

[(f) NOTE TO CODIFIER, please move this current subsection (f) *Convenience store criteria* to subsection (1) under new subsection (i) *Specific conditional use criteria*, and renumber accordingly]

* * *

(eg) *Setbacks.*

(1) Front setback. ~~No building or any part thereof shall be erected on any lot closer than 25 feet to the front lot line. No new building after [THE EFFECTIVE DATE OF THIS ORDINANCE] shall have a front setback, except those erected on Bougainvillea Drive which shall have a front setback of 25 feet from property line.~~

(2) Rear setback. No building or any part thereof shall be erected on any lot closer than ten feet from the rear lot line.

(3) Side setbacks. No side setbacks are required.

(4) Roof cornice setbacks. ~~Roof cornices constructed of fire-resistive materials, if ten feet or more above the sidewalk, may project over the public street not more than three feet, but shall never be closer than provided they are set back a minimum of two feet, measured from the curblin. The construction and anchorage of all such projections shall be subject to the approval of the Building Inspector and may be created only upon a permit issued by the Building Inspector.~~

~~(5) Exterior balconies. Fixed exterior balconies shall be designed in accordance with the engineering section of the Town's building code, and shall be supported in an approved manner and the framework shall be of steel, iron, reinforced concrete or other incombustible material. Such exterior balconies shall be at least ten feet in the clear between the lowest point of any projection and the sidewalk immediately below, and shall extend not more than three feet from the building, but shall never be closer than two feet measured from the curblin. Exterior balconies shall not support any enclosure or structures with roof above.~~

³~~(h) Loitering.~~

~~(1) All businesses shall provide adequate indoor seating for their customers, clients, patients and business invitees.~~

³ Subsections (h) and (i) have been relocated, to subsection 30-313(j) and (k) respectively.

Exhibit 1

~~(2) Except for customers seated in approved sidewalk café areas, customers, clients, patients or business invitees shall not be directed, encouraged or allowed to stand, sit (including in a parked car for any period of time longer than reasonably required for a person's passenger to conduct their official business and depart), or gather or loiter outside of the building where the business is operating, including in any parking areas, sidewalks, rights of way, or neighboring properties.~~

~~(3) Pedestrian queuing or loitering at any time, including prior to business hours, outside of the business' building is prohibited.~~

~~(i) *Queuing of vehicles.* All businesses shall ensure that there is no queuing of vehicles in the adjacent rights of way, drive aisles of the property's parking lot or on any adjacent properties.~~

~~(fj) *No drive-through or outdoor service.* Drive-through, drive-in or drive-up services or related service aisles are prohibited. Except as permitted in the operation of an approved sidewalk cafe or outdoor dining area, all business transactions including payment and receipt of merchandise shall occur inside the building.~~

~~(g) *Lot subdivision.* Subdivision of lots to a width less than 25 feet is not permitted.~~

⁴~~(h)~~ Outside seating for restaurants, on private property other than a sidewalk, that is accessory to the primary restaurant use may be permitted subject to the following regulations:

(1) *Permit required.* It shall be unlawful for any person to provide outside seating for a restaurant on private property within the Town without first obtaining a permit from the Town. The location of an outside seating area for a restaurant shall be approved by the Town Manager or designee.

(2) *Permit fee.* A permit fee shall be established by resolution of the Town Commission.

(3) *Permit application.* Application for a permit to provide outside seating for a restaurant shall be made at the office of the Town Clerk. Such application shall include:

a. Name, address and telephone number of the applicant.

b. Name and address of business.

c. A copy of a valid Town of Lauderdale-By-The-Sea business tax receipt to operate a restaurant adjacent to the outside seating area which is the subject of the application.

d. An 8 1/2 ~~eight and one-half inches~~ × 11 inches drawing or larger at a minimum scale of one inch equals 20 feet showing the following:

1. The store front and all openings (doors, windows);

2. The location and dimensions of the private property area being utilized for the outside seating area, including: structures located thereon; proposed

⁴ This subsection (h) has been relocated from subsection (e). Changes are shown from the original text. Additions to the original text are shown in underline and deletions are shown in ~~strikethrough~~.

Exhibit 1

- location, dimension and number of tables, chairs, and umbrellas proposed within the outside seating area;
3. Clear delineation of the boundary between private property and the public right-of-way;
 4. The location of tables and chairs complying with the Americans with Disabilities Act (ADA) standards.
- e. When the outside seating is visible from a public right-of-way, the application shall also include:
1. Photographs and/or manufacturer brochures fully describing the appearance of all proposed chairs, tables, umbrellas and other private features, including but not limited to lighting to be used in the proposed outside seating area.
 2. A trash management and maintenance plan for the outside seating area, which shall include a plan for pickup and disposal of any trash or food on or around the tables and chairs or sidewalk, and periodic pressure cleaning of the area used for outside seating. This plan shall ensure that the outside seating area is maintained in a neat and orderly appearance at all times and the area shall be cleared of all debris on a periodic basis during the day and at the close of each business day to ensure a healthy and safe environment.
- f. Written consent from the building owner for the proposed outside seating area.
- g. In the event the outside seating area is proposed in front of an adjacent owner's property, the applicant must provide written consent from the adjacent property owner for use of this area.
- h. Non-refundable application fee.
- i. Applications shall be reviewed for compliance with the Town Code and may be approved by the Town Manager or designee.
- j. The Town Manager or designee may deny an application that does not comply with this section. Such denials shall be written and shall provide the reasons for the denial. The applicant or any property owner whose property directly abuts the property which is the subject matter of the application may appeal the Town Manager or designee's decision to the Town Commission.
- (4) Location requirements. The location of an outside seating area for a restaurant shall be subject to the following locational regulations:
- a. An outside seating area shall only be permitted on private property that is:
 - ~~1. Adjacent to a licensed restaurant business to which the permit is issued;~~
 - ~~or~~
 - ~~2. Adjacent to another licensed business that is located within the same building as the licensed restaurant business to which a permit is issued.~~
 - b. Tables and chairs shall not be located within a ten-foot proximity of bus stops, taxi stands, fire hydrants, a pedestrian crosswalk, driveway or handicap ramp.
 - c. The Town Manager or designee may permit an exception to the distance requirement of subsection b. [above] from ten feet to five feet where established

Exhibit 1

pedestrian and tram paths shall not be obstructed and where public safety shall not be adversely affected.

- d. Markers approved by the Town Manager or designee shall be embedded into the property ~~by the applicant~~ to distinguish the approved boundaries of the outside seating area. This requirement may be waived by the Town Manager or designee if the proposed outside seating area is not on or adjacent to any private or public sidewalk, parking or other pedestrian area of the area is otherwise clearly delineated.

(5) Additional regulations for outside seating for a restaurant:

- a. The outside seating area shall be accessory to and under the same ownership or control as the primary restaurant which is operated within a permanently enclosed building located on the same or adjacent parcel.
- b. There shall be no use, operation, or playing of any musical instrument, loud-speaker, sound amplifier, or other machine or device for the production or reproduction of sound in such a manner as to disturb the peace, quiet, or comfort of the neighboring inhabitants or at any time with louder volume than is otherwise regulated by Chapter 13, Noise, of the Town Code.
- c. Food preparation shall only occur in the fully enclosed area of the licensed primary restaurant.
- d. Hours of operation shall not exceed the hours of operation established for the principal licensed restaurant.
- e. All fabrics shall be fire-retardant, pressure-treated or manufactured of fire resistive material.
- f. No objects shall be permitted around the perimeter of the outside seating area that is occupied by tables and chairs which would have the effect of forming a physical or visual barrier discouraging the use of a sidewalk by the general public.
- g. Additionally, when the outside seating area is visible from a public right-of-way:
 - 1. No tables, chairs, or any other part of an outside seating area shall be permanently attached, chained, or in any manner affixed to any tree, post, sign or other fixtures, curb or sidewalk within or near the permitted area.
 - 2. Tables, chairs, umbrellas, canopies, awnings, and any other objects utilized as part of the outside seating area shall be of quality design, materials, size, elevation and workmanship both to ensure the safety and convenience of users, and to enhance the visual quality of the urban environment. Design, materials and colors shall be approved by the Town Manager or designee prior to the issuance of the permit to allow the outside seating area.

- (6) Prior to issuance of a permit for an outside seating area, the Town Clerk shall certify that there are no outstanding fines, moneys, fees, taxes or other charges owed to the Town by the current or past owners or operators of the property requesting a permit for outside seating. A permit to allow outside seating will not be issued until all outstanding debts to the Town are paid in full.

Exhibit 1

- (7) Any primary restaurant which obtains a permit to have outside seating as an accessory use to a primary restaurant, pursuant to [sub)section 30-261(1) and (6) may redesign the face of their establishment to allow for doors or panels that permit the establishment to have open sides allowing for an indoor/outside restaurant design. Any proposed alterations, modifications or changes to the building shall require the issuance of a building permit, compliance with the Town Code and payment in full of all applicable fees.

(i) Specific conditional use criteria.

(1) [NOTE TO CODIFIER – RELOCATE TO THIS LOCATION: (f) Convenience store criteria.]

(2) [NOTE TO CODIFIER – RELOCATE TO THIS LOCATION: (k) Medical Marijuana requirements.]

(3) Mixed Use requirements. The following provisions govern applications for approval of "mixed use" development as a conditional use in the B-1-A district.

a. Purpose. The purpose of encouraging mixed use development is to:

1. Accommodate mixed-use buildings with neighborhood-serving retail, service, and other commercial uses on the ground floor, and residential units above the nonresidential space;
2. Encourage development that exhibits the physical design characteristics of pedestrian-oriented, storefront-style shopping streets; and
3. Promote the health and well-being of residents by encouraging physical activity, alternative transportation, and greater social interaction.

b. Mixed use development on commercially designated parcels. The Town may approve a conditional use for mixed use development on B-1-A zoned property when the property has a commercial land use designation in the Broward County Land Use Plan, if all of the following requirements are met:

1. Flexibility units are available, in accordance with section 30-100, Flexibility rules of the Town Code; and
2. The number of units and floor area limitations of this section are satisfied for the residential uses.

c. Limitations on residential uses.

1. Maximum number of units. No mixed use development may be assigned more than ten percent of the flexibility units in its flexibility zone. If ten percent of the units is not a whole number, it shall be rounded up to the next whole number.
2. Limitations on location of uses.
 - i. Non-residential use or space is prohibited on or above any floor which contains any residential use or space.
 - ii. Residential use or space is prohibited on the ground floor.

Exhibit 1

3. Floor area and lot coverage.

- i. The residential floor area of the mixed use development shall not exceed 50 percent of the gross floor area of the building.
- ii. No building which includes residential uses shall occupy an area greater than 70 percent of the entire lot.
- iii. The required lot area per apartment or kitchen unit shall be not less than 800 square feet. The required floor area per apartment or kitchen unit shall not be less than 250 square feet minimum.
- iv. The required floor area for a hotel room shall not be less than 200 square feet.

4. Rental Restriction. ~~Dwelling units that are used for rental purposes shall be limited as follows:~~

- ~~i. On properties with four dwelling units or less, short term rentals are permitted as an accessory use if a rental certificate is first obtained pursuant to section 30-327; or~~
- ~~ii. On properties with more than four dwelling units, a minimum residency of 120 consecutive days is required.~~

d. Parking requirements.

- 1. The total number of required off-street parking spaces for a mixed use development shall be equal to the sum of the required parking for each use as if provided separately.
- 2. A minimum of one parking space per residential unit must be provided on-site.
- 3. For a unit that includes both residential and non-residential uses, the total required parking will be equal to the parking required for the nonresidential use only. See sections 30-314 through 30-324 regarding off-street parking.

e. Landscaping and open space requirements. Mixed use developments shall be required to meet the vehicular use area requirements as provided in Article VII, Landscape Code, of Chapter 30, Unified Land Development Regulations, for non-residential uses.

(4) [NOTE TO CODIFIER – RELOCATE TO THIS LOCATION: (l) *Paid Private Parking requirements.*]

(k) NOTE TO CODIFIER, PLEASE MOVE THIS CURRENT SUBSECTION (k) *Medical Marijuana requirements* to subsection (2) under new subsection (i) *Specific conditional use criteria*, and renumber accordingly]

* * *

Exhibit 1

(l) NOTE TO CODIFIER, PLEASE MOVE THIS CURRENT SUBSECTION (l) regarding Paid Private Parking requirements to subsection (4) under new subsection (i) *Specific conditional use criteria*, and renumber accordingly]

* * *

Subdivision H. - B-1 District Regulations

Sec. 30-271. - B-1 district—Business.

(a) *B-1 uses permitted.*

* * *

(2) Conditional uses. The following conditional uses may be permitted upon approval pursuant to the conditional use procedures of this Code:

a. Bicycle taxi (no outside storage or display).

b. Call center, subject to the requirements as set forth in subsection (i), below.

c. Car wash/outdoor hand wash.

d. Charter and sightseeing boat.

e. Child and adult day-care centers.

f. Convenience store, subject to the requirements as set forth in subsection (i), below.

g. Drive-through services that are accessory to a primary use, provided that any approval of the drive-through use by the Town Commission shall specifically establish the location and traffic flow pattern of the drive-through.

h. Dry cleaner.

i. Marina, subject to the requirements as set forth in subsection (i) below.

j. Mixed use, subject to the requirements as set forth in subsection (i) below.

k. "Paid private parking" on parcels with a primary use, excluding standalone parking lots subject to the requirements as set forth in subsection (i) below.

[NOTE TO CODIFIER, please reletter remainder of section accordingly]

* * *

⁵(b) ~~Outside seating for restaurants, on private property other than a sidewalk, that is accessory to the primary restaurant use may be permitted subject to the following regulations:~~

(1) ~~Permit required. It shall be unlawful for any person to provide outside seating for a restaurant on private property within the Town without first obtaining a permit from the~~

⁵ Subsection (c) Outside seating for restaurants, has been relocated to subsection (h). Changes from the original text are shown in that new location in strikethrough and underline.

Exhibit 1

Town. The location of an outside seating area for a restaurant shall be approved by the Town Manager or designee.

~~(2) Permit fee. The fee for a permit for outside seating for a restaurant shall be as established by resolution of the Town Commission.~~

~~(3) Permit application. Application for a permit to provide outside seating for a restaurant shall be made at the office of the Town Clerk. Such application shall include:~~

~~a. Name, address and telephone number of the applicant.~~

~~b. Name and address of business.~~

~~c. A copy of a valid Town of Lauderdale By The Sea business tax receipt to operate a restaurant adjacent to the outside seating area which is the subject of the application.~~

~~d. An eight and one-half inches times; 11 inches drawing at a minimum scale of one inch equals 20 feet showing the following:~~

~~1. The store front and all openings (doors, windows).~~

~~2. The location and dimensions of the private property area being utilized for the outside seating area, including: structures located thereon; proposed location, dimension and number of tables, chairs, and umbrellas proposed within the outside seating area;~~

~~3. Clear delineation of the boundary between private property and the public right of way;~~

~~4. The location of tables and chairs complying with the Americans with Disabilities Act (ADA) standards.~~

~~e. When the outside seating area is visible from a public right of way, the application shall also include:~~

~~1. Photographs and/or manufacturer brochures fully describing the appearance of all proposed chairs, tables, umbrellas and other private features, including but not limited to lighting to be used in the proposed outside seating area.~~

~~2. A trash management and maintenance plan for the outside seating area, which shall include a plan for pickup and disposal of any trash or food on or around the tables and chairs or sidewalk, and periodic pressure cleaning of the area used for outside seating area. This plan shall ensure that the outside seating area is maintained in a neat and orderly appearance at all times and the area shall be cleared of all debris on a periodic basis during the day and at the close of each business day to ensure a healthy and safe environment.~~

~~f. Written consent from the building owner for the proposed outside seating area.~~

~~g. In the event the outside seating area is proposed in front of an adjacent owner's property, the applicant must provide written consent from the adjacent property owner for use of this area.~~

~~h. Non-refundable application fee.~~

Exhibit 1

i. ~~Applications shall be reviewed for compliance with the Town Code and may be approved by the Town Manager or designee.~~

j. ~~The Town Manager or designee may deny an application that does not comply with this section. Such denials shall be written and shall provide the reasons for the denial. The applicant or any property owner whose property directly abuts the property which is the subject matter of the application may appeal the Town Manager or designee's decision to the Town Commission.~~

~~(4) Location requirements. The location of an outside seating area for a restaurant shall be subject to the following locational regulations:~~

a. ~~An outside seating area shall only be permitted on private property that is:~~

1. ~~Adjacent to a licensed restaurant business to which the permit is issued; or~~

2. ~~Adjacent to another licensed business that is located within the same building as the licensed restaurant business to which a permit is issued.~~

b. ~~Tables and chairs shall not be permitted within a ten foot proximity of bus stops, taxi stands, fire hydrants, a pedestrian crosswalk, driveway or handicap ramp.~~

c. ~~The Town Manager or designee may permit an exception to the distance requirement of subsection b. [above] from ten feet to five feet where established pedestrian and tram paths shall not be obstructed and where public safety shall not be adversely affected.~~

d. ~~Markers approved by the Town Manager or designee shall be embedded into the property by the applicant to distinguish the approved boundaries of the outside seating area. This requirement may be waived by the Town Manager or designee if the proposed outside seating area is not on or adjacent to any private or public sidewalk, parking or other pedestrian area.~~

~~(5) Additional regulations for outside seating for a restaurant:~~

a. ~~The outside seating area shall be accessory to and under the same ownership or control as the primary restaurant which is operated within a permanently enclosed building located on the same or adjacent parcel.~~

b. ~~There shall be no use, operation, or playing of any musical instrument, loudspeaker, sound amplifier, or other machine or device for the production or reproduction of sound in such a manner as to disturb the peace, quiet, or comfort of the neighboring inhabitants or at any time with louder volume than is otherwise regulated by Chapter 13, Noise, of the Town Code.~~

c. ~~Food preparation shall only occur in the fully enclosed area of the licensed primary restaurant.~~

d. ~~Hours of operation shall not exceed the hours of operation established for the principal licensed restaurant.~~

e. ~~All fabrics shall be fire retardant, pressure-treated or manufactured of fire resistive material.~~

Exhibit 1

f. ~~No objects shall be permitted around the perimeter of the outside seating area that is occupied by tables and chairs which would have the effect of forming a physical or visual barrier discouraging the use of a sidewalk by the general public.~~

g. ~~Additionally, when the outside seating area is visible from a public right of way:~~

1. ~~No tables, chairs, or any other part of an outside seating area shall be permanently attached, chained, or in any manner affixed to any tree, post, sign or other fixtures, curb or sidewalk within or near the permitted area.~~

2. ~~Tables, chairs, umbrellas, canopies, awnings, and any other objects utilized as part of the outside seating area shall be of quality design, materials, size, elevation and workmanship both to ensure the safety and convenience of users, and to enhance the visual quality of the urban environment. Design, materials and colors shall be approved by the Town Manager or designee prior to the issuance of the permit to allow the outside seating.~~

(6) ~~Prior to issuance of a permit for outside seating, the Town Clerk shall certify that there are no outstanding fines, moneys, fees, taxes or other charges owed to the Town by the current or past owners or operators of the property requesting a permit for outside seating. A permit to allow outside seating will not be issued until all outstanding debts to the Town are paid in full.~~

(7) ~~Any primary restaurant which obtains a permit to have outside seating as an accessory use to the primary restaurant, pursuant to [sub]section 30-261(1) and (6) may redesign the face of their establishment to allow for doors or panels that permit the establishment to have open sides allowing for an indoor/outside restaurant design. Any proposed alterations, modifications or changes to the building shall require the issuance of a building permit, compliance with the Town Code and payment in full of all applicable fees.~~

[(c) NOTE TO CODIFIER, please move this current subsection (c) *Convenience store criteria* to subsection (1) under new subsection (i) *Specific conditional use criteria*, and renumber accordingly]

(b~~d~~) *Height*. No building shall be erected to a height greater than two stories on ~~single 25-foot~~ lots ~~less than 50 feet in width~~, nor greater than three stories on ~~any other 50-foot~~ lots. Lots which are adjacent may be combined and developed as one parcel, and may utilize the wider lot height restrictions if a joinder of the lots under a unity of title or covenant-in-lieu is provided in a form acceptable to the Town Attorney.

(c~~e~~) *Lot coverage. Areas*. ~~No building which is used for residence purposes above the ground floor shall occupy an area greater than 70 percent of the entire lot. The required lot area per apartment or kitchen unit shall be 800 square feet. The required floor area for a kitchen unit shall not be less than 250 square feet minimum and the area for a hotel room with bath shall not be less than 200 square feet. Buildings not used for residential purposes shall not occupy no more than 90 percent of the lot area.~~

Exhibit 1

⁶(f) ~~Mixed use development.~~ The following provisions govern applications for the conditional use of "mixed use," a vertical mix of neighborhood serving B-1 uses and residential uses within the same building, in locations fronting on Commercial Boulevard and west of State Road A1A.

(1) ~~Purpose.~~ The purpose of encouraging mixed use development on Commercial Boulevard is to:

- a. ~~Accommodate mixed use buildings with neighborhood serving retail, service, and other commercial uses on the ground floor, and residential units above the nonresidential space;~~
- b. ~~Encourage development that exhibits the physical design characteristics of pedestrian-oriented, storefront-style shopping streets; and~~
- c. ~~Promote the health and well-being of residents by encouraging physical activity, alternative transportation, and greater social interaction.~~

(2) ~~Definitions.~~ For purposes of this section, the following definitions shall apply.

- a. ~~"Live/work units" means a type of mixed use development that combines non-residential uses in the same structure as a dwelling unit occupied by the business owner, which reduces trip generation, provides for affordable and diverse housing options in the Town, incubates new businesses and provides for the needs of unique businesses such as art galleries and studios.~~
- b. ~~"Live/work space" means the residential dwelling unit and related non-residential uses conducted above the ground floor of a live/work unit.~~
- c. ~~"Mixed use building" means a building that contains at least one floor devoted to non-residential use and at least one devoted to allowed residential uses.~~
- d. ~~"Non-residential use" means neighborhood serving retail, service, commercial or other uses allowed in the B-1 zoning district, excluding residential uses.~~
- e. ~~"Work/sales space" means the non-residential uses on the ground floor of a live/work unit.~~

(3) ~~Mixed use development on commercially designated parcels.~~ The Town may approve a conditional use for mixed use development on B-1 zoned property when the property has a commercial land use designation in the Broward County Land Use Plan, if all of the following requirements are met:

- a. ~~Approval is obtained of an allocation of available flexibility units, in accordance with section 30-100, Flexibility rules of the Town Code;~~
- b. ~~The number of units and floor area limitations of this section are satisfied for the residential uses;~~
- c. ~~Non-residential uses, as defined herein, are limited to the floor(s) below the residential uses;~~

⁶ Subsection (f) Mixed use development, has been relocated to subsection (i)(3). Changes from the original text are shown in that new location in strikethrough and underline.

Exhibit 1

d. ~~The property fronts on Commercial Boulevard, and is located west of State Road A1A;~~

e. ~~A major site plan modification or a site plan approval is obtained; and~~

f. ~~A conditional use approval is obtained.~~

~~(4) Permitted uses.~~

a. ~~On the ground floor:~~

1. ~~Work/sales space in a live/work unit.~~

2. ~~Non residential use.~~

b. ~~Above the ground floor:~~

1. ~~Live/work space in a live/work unit.~~

2. ~~Dwelling units.~~

~~(5) Limitations on residential uses.~~

a. ~~Maximum number of units.~~ No mixed use development may be assigned more than ten percent of the flexibility units in its flexibility zone. If ten percent of the units is not a whole number, it shall be rounded up to the next whole number.

b. ~~Floor area.~~ The residential floor area of the mixed use development does not exceed 50 percent of the gross floor area of the building.

~~(6) Parking requirements.~~ The total number of required off street parking spaces for a mixed use development shall be equal to the sum of the required parking for each use as if provided separately. For live/work mixed use development, the total required parking will be equal to the parking required for the nonresidential use only. See sections 30-314 through [30-]324 regarding off street parking.

~~(7) Landscaping and open space requirements.~~ Mixed use developments shall be required to meet the vehicular use area requirements as provided in Article VII, Landscape Code, of Chapter 30, Unified Land Development Regulations, for the non residential use only.

~~(8) Town approvals required for mixed use development.~~

a. ~~Conditional use.~~ A conditional use shall be obtained in accordance with the requirements of section 30-126 of the Town Code. As part of the conditional use review, the Town Commission shall verify that section 30-100, Flexibility rules of the Town Code, has been satisfied for the allocation of flexibility units.

b. ~~Site plan.~~ Either a major site plan modification shall be obtained in accordance with section 30-123, or a site plan approval shall be obtained pursuant to article IV, Development Permits — Application, Requirements and Review Procedures, division 2, Site Plan Procedures and Requirements, of the Town Code.

(dg) Design.

(1) Construction shall be limited to one building on B-4 lots 50 feet or less in width.

Exhibit 1

- (2) ~~All business buildings constructed in a business district~~ shall be of C.B.S. construction.
- (3) Except on waterfront properties, no parking spaces constructed after [THE EFFECTIVE DATE OF THIS ORDINANCE] shall be located along the primary street frontage and to the maximum extent feasible without losing required parking, as determined by the DSD, existing parking along the primary street frontage shall be removed from the primary street frontage for any redevelopment.
- (4) Curbcuts providing access to parking areas shall be located on streets other than Commercial Boulevard, except where a property only has access from Commercial Boulevard, or it is determined based on a traffic study that access from Commercial Boulevard is necessary for safe and efficient vehicular and pedestrian circulation, and shall be designed with every practical consideration for appearance, fire protection, health, light, air. All plans and specifications of the building shall be approved by the Town Building Inspector. The Building Inspector need not approve design and use of a building and may ask the Town staff, Planning and Zoning Board or the Board of Adjustment for an official opinion or decision thereon. Open fronts are specifically prohibited in B-1 districts and there shall be a maximum opening of ten feet by ten feet for doorways in each business building.
- (5) Each structure shall have its own sustaining walls; party walls are prohibited.
- (6) There shall be at least one front entrance and one rear entrance to buildings.
- (7) There must be a ground floor storefront facing the primary street. If the property is a corner lot, there must be a ground floor storefront facing both streets.
- (8) Building facades on the second or third stories shall be physically and visually diverse, incorporating features such as balconies, alternate or varied setbacks, eyebrows or other artistic and architectural features on at least 40% of the linear frontage per story above the first. The DSD shall review and approve compliance with this criteria through the architectural review process, and may decrease the 40% standard by 10% if the DSD finds that such a change enhances the mid-century modern façade and remains consistent with the architectural design guidelines.
- (9) Building facades on the majority of the length of the first floor must incorporate architectural features such as eyebrows, awnings, canopies or other artistic and architectural features to create shade.
- (eh) *Minimum building size.* No building shall be erected on any lot, that is not a waterfront lot, which does not comprise at least 1,200 ground floor square feet of floor space, exclusive of utility rooms, porches, garages and/or carports; and no building shall be erected on any waterfront lot, the main structure of which does not comprise at least 1,300 ground floor square feet of floor space, exclusive of utility rooms, porches, garages, and/or carports.
- (fi) *Setbacks.*
- (1) *Front setback.* ~~Business buildings~~ Buildings shall ~~are not required to be~~ set back on the front except those erected on Ocean Drive (A1A) or Bougainvilla Drive which shall have the following setbacks:

Exhibit 1

- 790 a. Ocean Drive (A1A), front setback of not less than 50 feet from the centerline of
791 said thoroughfare; and
- 792 b. Bougainvilla Drive, front setback of 25 feet from property line.
- 793 (2) *Side setback.*
- 794 a. ~~Business~~ Buildings erected on Blocks 5, 6, 13, and 14 siding on El Mar Drive
795 shall have a side setback of eight feet from the respective property lines of said
796 thoroughfare;
- 797 b. ~~business~~ Buildings erected on Blocks 13, 14, 20 and 21 siding on Ocean Drive
798 (A1A) shall have a side setback of not less than 50 feet from the centerline of said
799 thoroughfare; and.
- 800 c. Where windows are required or present along an interior side lot line, a setback of
801 not less than five feet shall be provided;
- 802 d. Otherwise, one-story business buildings require no side setback, except where
803 windows are required, in which case a setback of not less than five feet shall be
804 made.
- 805 (3) *Rear setback:*
- 806 a. No building or any part thereof shall be erected on any lot closer than ten feet
807 from the rear lot line.
- 808 b. No building or any part thereof shall be erected on any lot closer than 30 feet
809 from the rear lot line in the following designated areas:
- 810 1. All of Block B except Lots 1, 2, 3, 12, 13, and 14 in Silver Shores Section
811 of the Town of Lauderdale-By-The-Sea, Unit "A," according to the plat
812 thereof, recorded in Plat Book 28, page 39, Public Records of Broward
813 County, Florida. Lots 1, 2, 3, 12, 13, and 14 shall be required to comply
814 with the rear setback described in [subsection] (3)(a) herein.
- 815 2. All of Block E except Lots 1, 2, 3, 12, 13, and 14 of a subdivision of Track
816 "D" of Silver Shores Section of the Town of Lauderdale-By-The-Sea, Unit
817 "A," according to the plat thereof, recorded in Plat Book 29, page 21,
818 Public Records of Broward County, Florida. Lots 1, 2, 3, 12, 13, and 14
819 shall be required to comply with the rear setback described in {subsection}
820 (3)(a) herein.
- 821 3. All of Blocks J and K except Lots 1, 2, 3, 12, 13, and 14 of Silver Shores
822 Section of the Town of Lauderdale-By-The-Sea, Unit "B," according to
823 the plat thereof, recorded in Plat Book 31, page 3, Public Records of
824 Broward County, Florida. Lots 1, 2, 3, 12, 13, and 14 shall be required to
825 comply with the rear setback described in {subsection} (3)(a) herein.
- 826 (4) *Roof cornice setbacks.* ~~Roof cornices constructed of fire resistive materials, if ten feet~~
827 ~~or more above the sidewalk, may project over the public street not more than three~~
828 ~~feet, provided the roof cornices are set back a minimum of but shall never be closer~~
829 ~~than two feet, measured from the curbline. The construction and anchorage of all such~~

Exhibit 1

- projections shall be subject to the approval of the Building Inspector and may be erected only upon a permit issued by the Building Inspector.
- ~~(5) Exterior balconies. Fixed exterior balconies shall be designed in accordance with the engineering section of the Town's building code, and shall be supported in an approved manner and the framework shall be of steel, iron, reinforced concrete or other incombustible material. Such exterior balconies shall be at least ten feet in the clear between the lowest point of any projection and the sidewalk immediately below, and shall extend not more than three feet from the building, shall never be closer than two feet from the curbline. Exterior balconies shall not support any enclosure or structures with roof above.~~
- (g) Lot subdivision. Subdivision of lots to a width less than 25 feet is prohibited.
- ⁷~~(j) Loitering.~~
- ~~(1) All businesses shall provide adequate indoor seating for their customers, clients, patients and business invitees.~~
- ~~(2) Except for customers seated in approved sidewalk café areas, customers, clients, patients or business invitees shall not be directed, encouraged or allowed to stand, sit (including in a parked car for any period of time longer than reasonably required for a person's passenger to conduct their official business and depart), or gather or loiter outside of the building where the business is operating, including in any parking areas, sidewalks, rights of way, or neighboring properties.~~
- ~~(3) Pedestrian queuing at any time, including prior to business hours, outside of the business' building is prohibited.~~
- ~~(k) Queuing of vehicles. All businesses shall ensure that there is no queuing of vehicles in the adjacent rights of way, drive aisles of the property's parking lot or on any adjacent properties;~~
- ~~(l) Properties with street frontage on the parking plazas or Commercial Boulevard between Seagrape Drive and West Tradewinds only; general provisions.~~
- ~~(1) All construction which shall extend to a permitted two-story level use shall provide front and rear entrances.~~
- ~~(2) Each structure shall have its own sustaining walls; party walls shall be prohibited.~~
- ~~(3) There shall be both a front and rear entrance to buildings.~~
- ~~(4) All construction on corner lots and Seagrape Drive, East Tradewinds or West Tradewinds, and facing east or west, must include a finished storefront architecture on the side of the building facing Commercial Boulevard on the north or south side, as the case may be, dependent upon which side of Commercial Boulevard the construction is planned. This requirement is intended to eliminate any solid wall frontage facing the boulevard.~~

⁷ These subsections (j) and (k) have been relocated to Section 30-313 (j) and (k) respectively.

Exhibit 1

[(m) NOTE TO CODIFIER, please move this current subsection (m) *Marina Uses* to subsection (2) under new subsection (i) *Specific conditional use criteria*, and renumber accordingly]

[(n) NOTE TO CODIFIER, please move this current subsection (n) *Paid Private Parking* to subsection (4) under new subsection (i) *Specific conditional use criteria*, and renumber accordingly]

(h⁸) Outside seating for restaurants, on private property other than a sidewalk, that is accessory to the primary restaurant use may be permitted subject to the following regulations:

(1) *Permit required.* It shall be unlawful for any person to provide outside seating for a restaurant on private property within the Town without first obtaining a permit from the Town. The location of an outside seating area for a restaurant shall be approved by the Town Manager or designee.

(2) *Permit fee.* The fee for a permit for outside seating for a restaurant shall be as established by resolution of the Town Commission.

(3) *Permit application.* Application for a permit to provide outside seating for a restaurant shall be made at the office of the Town Clerk. Such application shall include:

a. Name, address and telephone number of the applicant.

b. Name and address of business.

c. A copy of a valid Town of Lauderdale-By-The-Sea business tax receipt to operate a restaurant adjacent to the outside seating area which is the subject of the application.

d. An 8 ½ x 11 inch ~~eight and one half inches times; 11 inches drawing or larger~~ at a minimum scale of one inch equals 20 feet showing the following:

1. The store front and all openings (doors, windows).

2. The location and dimensions of the private property area being utilized for the outside seating area, including: structures located thereon; proposed location, dimension and number of tables, chairs, and umbrellas proposed within the outside seating area;

3. Clear delineation of the boundary between private property and the public right-of-way;

4. The location of tables and chairs complying with the Americans with Disabilities Act (ADA) standards.

e. When the outside seating area is visible from a public right-of-way, the application shall also include:

⁸ This subsection (h) has been relocated from subsection (c). Changes shown are from the original text. Additions to the original text are shown in underline and deletions are shown in ~~strikethrough~~.

Exhibit 1

- 902 1. Photographs and/or manufacturer brochures fully describing the
903 appearance of all proposed chairs, tables, umbrellas and other private
904 features, including but not limited to lighting to be used in the proposed
905 outside seating area.
- 906 2. A trash management and maintenance plan for the outside seating area,
907 which shall include a plan for pickup and disposal of any trash or food on
908 or around the tables and chairs or sidewalk, and periodic pressure cleaning
909 of the area used for outside seating area. This plan shall ensure that the
910 outside seating area is maintained in a neat and orderly appearance at all
911 times and the area shall be cleared of all debris on a periodic basis during
912 the day and at the close of each business day to ensure a healthy and safe
913 environment.
- 914 f. Written consent from the building owner for the proposed outside seating area.
- 915 g. In the event the outside seating area is proposed in front of an adjacent owner's
916 property, the applicant must provide written consent from the adjacent property
917 owner for use of this area.
- 918 h. Non-refundable application fee.
- 919 i. Applications shall be reviewed for compliance with the Town Code and may be
920 approved by the Town Manager or designee.
- 921 j. The Town Manager or designee may deny an application that does not comply
922 with this section. Such denials shall be written and shall provide the reasons for
923 the denial. The applicant or any property owner whose property directly abuts
924 the property which is the subject matter of the application may appeal the Town
925 Manager or designee's decision to the Town Commission.
- 926 (4) *Location requirements.* The location of an outside seating area for a restaurant shall
927 be subject to the following locational regulations:
- 928 a. An outside seating area shall only be permitted on private property that is:
- 929 ~~1. Adjacent to a licensed restaurant business to which the permit is issued;~~
930 ~~or~~
- 931 ~~2. Adjacent to another licensed business that is located within the same~~
932 ~~building as the licensed restaurant business to which a permit is issued.~~
- 933 b. Tables and chairs shall not be permitted within a ten-foot proximity of bus
934 stops, taxi stands, fire hydrants, a pedestrian crosswalk, driveway or handicap
935 ramp.
- 936 c. The Town Manager or designee may permit an exception to the distance
937 requirement of subsection b. [above] from ten feet to five feet where established
938 pedestrian and tram paths shall not be obstructed and where public safety shall
939 not be adversely affected.
- 940 d. Markers approved by the Town Manager or designee shall be embedded into the
941 property ~~by the applicant~~ to distinguish the approved boundaries of the outside

Exhibit 1

seating area. This requirement may be waived by the Town Manager or designee if the proposed outside seating area is not on or adjacent to any private or public sidewalk, parking or other pedestrian area or the area is otherwise clearly delineated.

(5) *Additional regulations for outside seating for a restaurant:*

- a. The outside seating area shall be accessory to and under the same ownership or control as the primary restaurant which is operated within a permanently enclosed building located on the same or adjacent parcel.
- b. There shall be no use, operation, or playing of any musical instrument, loud-speaker, sound amplifier, or other machine or device for the production or reproduction of sound in such a manner as to disturb the peace, quiet, or comfort of the neighboring inhabitants or at any time with louder volume than is otherwise regulated by Chapter 13, Noise, of the Town Code.
- c. Food preparation shall only occur in the fully enclosed area of the licensed primary restaurant.
- d. Hours of operation shall not exceed the hours of operation established for the principal licensed restaurant.
- e. All fabrics shall be fire-retardant, pressure-treated or manufactured of fire resistive material.
- f. No objects shall be permitted around the perimeter of the outside seating area that is occupied by tables and chairs which would have the effect of forming a physical or visual barrier discouraging the use of a sidewalk by the general public.
- g. Additionally, when the outside seating area is visible from a public right-of-way:
 1. No tables, chairs, or any other part of an outside seating area shall be permanently attached, chained, or in any manner affixed to any tree, post, sign or other fixtures, curb or sidewalk within or near the permitted area.
 2. Tables, chairs, umbrellas, canopies, awnings, and any other objects utilized as part of the outside seating area shall be of quality design, materials, size, elevation and workmanship both to ensure the safety and convenience of users, and to enhance the visual quality of the urban environment. Design, materials and colors shall be approved by the Town Manager or designee prior to the issuance of the permit to allow the outside seating.

- (6) Prior to issuance of a permit for outside seating, the Town Clerk shall certify that there are no outstanding fines, moneys, fees, taxes or other charges owed to the Town by the current or past owners or operators of the property requesting a permit for outside seating. A permit to allow outside seating will not be issued until all outstanding debts to the Town are paid in full.

Exhibit 1

- (7) Any primary restaurant which obtains a permit to have outside seating as an accessory use to the primary restaurant, pursuant to [sub]section 30-261(1) and (6) may redesign the face of their establishment to allow for doors or panels that permit the establishment to have open sides allowing for an indoor/outside restaurant design. Any proposed alterations, modifications or changes to the building shall require the issuance of a building permit, compliance with the Town Code and payment in full of all applicable fees.

(i) Specific conditional use requirements.

(1) [NOTE TO CODIFIER – RELOCATE TO THIS LOCATION: (c) *Convenience store criteria.*]

(2) [NOTE TO CODIFIER – RELOCATE TO THIS LOCATION: (m) *Marina Uses.*]

(3)⁹ ~~*Mixed use requirements development.*~~ The following provisions govern applications for approval of ~~the conditional use of "mixed use;" development as a conditional use in the B-1 district.~~ a vertical mix of neighborhood serving B-1 uses and residential uses within the same building in locations fronting on Commercial Boulevard and west of State Road A1A.

a. *Purpose.* The purpose of encouraging mixed use development ~~on Commercial Boulevard~~ is to:

1. Accommodate mixed-use buildings with neighborhood-serving retail, service, and other commercial uses on the ground floor, and residential units above the nonresidential space;
2. Encourage development that exhibits the physical design characteristics of pedestrian-oriented, storefront-style shopping streets; and
3. Promote the health and well-being of residents by encouraging physical activity, alternative transportation, and greater social interaction.

b. ~~*Definitions.* For purposes of this section, the following definitions shall apply.~~

1. ~~"Live/work units" means a type of mixed use development that combines non-residential uses in the same structure as a dwelling unit occupied by the business owner, which reduces trip generation, provides for affordable and diverse housing options in the Town, incubates new businesses and provides for the needs of unique businesses such as art galleries and studios.~~
2. ~~"Live/work space" means the residential dwelling unit and related non-residential uses conducted above the ground floor of a live/work unit.~~
3. ~~"Mixed-use building" means a building that contains at least one floor devoted to non-residential use and at least one devoted to allowed residential uses.~~

⁹ This section was relocated from subsection (f). Changes shown are from the original text. Additions to the original text are shown in underline and deletions are shown in ~~strikethrough~~.

Exhibit 1

4. ~~"Non-residential use" means neighborhood-serving retail, service, commercial or other uses allowed in the B-1 zoning district, excluding residential uses.~~

5. ~~"Work/sales space" means the non-residential uses on the ground floor of a live/work unit.~~

be. *Mixed use development on commercially designated parcels.* The Town may approve a conditional use for mixed use development on B-1 zoned property when the property has a commercial land use designation in the Broward County Land Use Plan, if all of the following requirements are met:

1. ~~Approval is obtained of an allocation of available f~~Flexibility units are available, in accordance with section 30-100, Flexibility rules of the Town Code; ~~and~~

2. The number of units and floor area limitations of this section are satisfied for the residential uses; ~~and~~.

3. The property is located within 250 feet of Commercial Boulevard measured by airline measurement from the Commercial Boulevard right-of-way line. If any portion of a property lies within the 250 foot measurement, the whole property shall be eligible for mixed use development.

3. ~~Non-residential uses, as defined herein, are limited to the floor(s) below the residential uses;~~

4. ~~The property fronts on Commercial Boulevard, and is located west of State Road A1A;~~

5. ~~A major site plan modification or a site plan approval is obtained; and~~

6. ~~A conditional use approval is obtained.~~

d. ~~*Permitted uses.*~~

1. ~~On the ground floor:~~

i. ~~Work/sales space in a live/work unit.~~

ii. ~~Non-residential use.~~

2. ~~Above the ground floor:~~

i. ~~Live/work space in a live/work unit.~~

ii. ~~Dwelling units.~~

ce. *Limitations on residential uses.*

1. *Maximum number of units.* No mixed use development may be assigned more than ten percent of the flexibility units in its flexibility zone. If ten percent of the units is not a whole number, it shall be rounded up to the next whole number.

2. *Limitations on location of uses.*

Exhibit 1

i. Non-residential use or space is prohibited on or above any floor which contains any residential use or space.

ii. Residential use or space is prohibited on the ground floor.

3. Floor area and lot coverage.

i. The residential floor area of the mixed use development ~~does~~ shall not exceed 50 percent of the gross floor area of the building.

ii. No building which includes residential uses shall occupy an area greater than 70 percent of the entire lot.

iii. The required lot area per apartment or kitchen unit shall be not less than 800 square feet. The required floor area per apartment of kitchen unit shall not be less than 250 square feet minimum.

iv. The required floor area for a hotel room shall not be less than 200 square feet.

3. Affidavit of Understanding. Residential uses located east of A1A must include an affidavit of understanding, in a form acceptable to the Town Attorney regarding special event activity, street closures and noise ordinance waivers that periodically takes place downtown.

4. Lease notice requirement. Residential uses east of State Road A1A must include the following notice to all tenants in all leases and contracts:

This Unit is located in the core of downtown Lauderdale-By-The-Sea. Special event activities periodically take place in this area on the streets directly below this unit. On any given occasion, street closures may take place and the noise ordinance may be waived. Such circumstances and inconveniences are accepted as part of this agreement.

5. Rental Restrictions. Dwelling units that are used for rental purposes shall be limited as follows:

i. On properties with less than four dwelling units, short term rentals are permitted as an accessory use if a rental certificate is first obtained pursuant to section 30-327; or

ii. On properties located west of Seagrape Drive with more than four dwelling units, a minimum residency of 120 consecutive days is required.

d.f. Parking requirements.

1. The total number of required off-street parking spaces for a mixed use development shall be equal to the sum of the required parking for each use as if provided separately.

2. A minimum of one parking space per residential unit must be provided on-site.

Exhibit 1

3. For a unit that combines both residential and nonresidential uses,
~~live/work mixed use development~~, the total required parking will be equal
to the parking required for the nonresidential use only. See sections 30-
314 through {30-}324 regarding off-street parking.

eg. *Landscaping and open space requirements.* Mixed use developments shall be
required to meet the vehicular use area requirements as provided in Article VII,
Landscape Code, of Chapter 30, Unified Land Development Regulations, for
~~the non-residential uses only.~~

~~(8) *Town approvals required for mixed use development.*~~

~~a. *Conditional use.* A conditional use shall be obtained in accordance with the
requirements of section 30-126 of the Town Code. As part of the conditional
use review, the Town Commission shall verify that section 30-100, Flexibility
rules of the Town Code, has been satisfied for the allocation of flexibility units.~~

~~b. *Site plan.* Either a major Level 1 site plan modification shall be obtained in
accordance with section 30-123, or a site plan approval shall be obtained
pursuant to article IV, Development Permits – Application, Requirements and
Review Procedures, division 2, Site Plan Procedures and Requirements, of the
Town Code.~~

(4) [NOTE TO CODIFIER – RELOCATE TO THIS LOCATION: (n) *Paid Private
Parking.*]

(5) *Call Center Requirements.* The following provisions govern applications for
approval of call centers as a conditional use in the B-1 district.

a. The applicant for a call center conditional use shall provide to the Town an
operational plan containing information needed to assess the potential impact on
parking and traffic, including the number of employees, a shift schedule
including the maximum number of employees arriving from and leaving
the call center during the shift change and any steps that may be proposed for
mitigating parking and/or traffic impacts. Examples of mitigation measures
include shifts schedules to avoid arriving and leaving at peak traffic hours, and
providing incentives for employees using public transportation or ridesharing
arrangements.

b. If determined by the DSD to be necessary, submittal of a traffic impact
statement and/or parking study may be required to ensure that adequate parking
will be available. If such traffic statement or parking study is required, the
applicant shall be responsible for any costs incurred by the Town in reviewing
such statement or study.

* * *

Exhibit 1

1133 **SECTION 4.** Chapter 30, Unified Land Development Regulations of the Code of
1134 Ordinances, Article V, Zoning, Division 2, Districts, Subdivision L, Supplemental Regulations,
1135 is hereby amended as follows:

1136 **Chapter 30 - UNIFIED LAND DEVELOPMENT REGULATIONS**

1137 * * *

1138 **ARTICLE V. – ZONING**

1139 * * *

1140 **DIVISION 2. - DISTRICTS**

1141 * * *

1142 **Subdivision L. – Supplemental Regulations**

1143 * * *

1144 **Sec. 30-313. – General Provisions.**

1145 * * *

1146 ¹⁰(j) ~~Reserved.~~ *Capacity restrictions.*

1147 (1) All businesses shall provide adequate indoor seating for their customers, clients,
1148 patients and business invitees.

1149 (2) Except for customers seated in approved sidewalk café areas, customers, clients,
1150 patients or business invitees shall not be directed, encouraged or allowed to stand, sit
1151 (including in a parked car for any period of time longer than reasonably required for a
1152 person's passenger to conduct their official business and depart), or gather or
1153 ~~wait~~*wait* outside of the building where the business is operating, including in any
1154 parking areas, sidewalks, rights-of-way, or neighboring properties.

1155 (3) Pedestrian queuing at any time, including ~~prior to~~ *before or after* business hours,
1156 outside of a business' building is prohibited.

1157 ¹¹(k) ~~Reserved.~~ *Queuing of vehicles.* All businesses shall ensure that there is no queuing of
1158 vehicles in the adjacent rights-of-way, drive aisles of the property's parking lot or on any
1159 adjacent properties;

1160 **SECTION 5. Codification.** This Ordinance shall be codified in accordance with the
1161 foregoing. It is the intention of the Town Commission that the provisions of this Ordinance shall

¹⁰ This subsection (j) has been relocated from section 30-261(h) and 30-271(j).

¹¹ This subsection (k) has been relocated from section 30-261(i) and 30-271(k).

Exhibit 1

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 6. 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 7. Conflicting Ordinances. All prior ordinances or resolutions, or parts thereof, in conflict herewith are hereby repealed to the extent of said conflict.

SECTION 8. 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 _____, 2017.

Passed and adopted on the second reading, this ____ day of _____, 2017.

MAYOR SCOT SASSER

First Reading

Second Reading

Mayor Sasser

Vice-Mayor Brown

Commissioner Oldaker

Commissioner Sokolow

Commissioner Vincent

ATTEST:

Exhibit 1

1188

1189

1190 _____
Tedra Allen, Town Clerk

1191

1192 APPROVED AS TO FORM:

1193

1194

1195

1196 _____
Susan L. Trevarthen, Town Attorney

1197