

ORDINANCE NO. 190-10-144

AN ORDINANCE OF THE CITY COMMISSION OF LAUDERHILL, FLORIDA AMENDING ARTICLE III, ZONING DISTRICTS, PART 5.0 SPECIAL REQUIREMENTS FOR SPECIFIC LAND USE CLASSIFICATIONS, SECTION 5.26, LIVE ENTERTAINMENT, AND SECTION 5.32, RESTAURANTS; AMENDING ARTICLE III, SECTION 3.2.5. COMMERCIAL ENTERTAINMENT (CE) ZONING DISTRICT; AMENDING CODE OF ORDINANCES, CHAPTER 14, ARTICLE II, OFFENCES, SECTION 14-22, NOISES; PROVIDING FOR FINDINGS AND CONCLUSIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE (REQUESTED BY CITY MANAGER, CHARLES FARANDA)

WHEREAS, the City Commission has adopted a Comprehensive Plan as is required by the Local Government Comprehensive Planning and Land Development Regulation Act (Act), which Comprehensive Plan was subsequently determined to be in-compliance with said Act; and

WHEREAS, Section 163.3202, Florida Statutes, requires each municipality to adopt or amend and enforce land development regulations that are consistent with and implement their adopted comprehensive plan; and

WHEREAS, on June 11th, 1990, the City Commission implement its adopted Comprehensive Plan as is required by Section 163.3202, Florida Statutes, by adopting the City of Lauderhill Land Development Regulations (LDR); and

WHEREAS, Paragraph 163.3202(2)(b), Florida Statutes, requires the land development regulations contain specific and detailed provisions necessary to regulate the use of land and water for those land use categories included in the land use element and ensure the compatibility of adjacent uses and provide for open spaces; and

WHEREAS, this Ordinance proposes to amend the Land Development Regulations as it relates to regulating Sound Levels by Receiving Land Use and provisions relating to the regulation of both Outdoor Entertainment and Live Entertainment; and

WHEREAS, at their duly noticed meeting and public hearing of October 22, 2019, the City's Planning and Zoning Board, sitting as the Local Planning Agency (LPA), entered the Development Review Report on the proposed Ordinance into the record, adopted the findings and conclusions supporting the Ordinance's adoption, and recommended the City Commission adopt the Ordinance and incorporate it into the Land Development Regulations; and

WHEREAS, the City Commission considered this Ordinance at their duly noticed meeting and public hearing of October 28, 2019 on first reading; and

WHEREAS, at their subsequently duly noticed meeting and public hearing of November 25, 2019 the City Commission considered this Ordinance on second reading to incorporate the revisions into the Land Development Regulations;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAUDERHILL, FLORIDA:

SECTION 1. That Land Development Regulations, Article, III, Zoning Districts, Sec.3.2.5.8, is hereby amended to read as follows:

Days and hours of operation.

1. It shall be prohibited for any establishment to be open on Monday through Saturday from 4:00 a.m. to 6:00 a.m. and on Sunday from 6:00 a.m. to 7:30 a.m. The days and hours of operation for both indoor and outdoor live entertainment are Sunday through Thursday from 10:00 a.m. to ~~9:00 p.m.~~ 4:00 a.m. and on Friday, Saturday and legal holidays from 9:00 a.m. to ~~midnight~~ 4:00 a.m. The City Manager, through the special permit process, may extent the hours of operation for a specific event.
2. Alcoholic Beverage Establishment hours during which sales and consumption are prohibited shall follow Article III, Section 5.3.1.

SECTION 2. That Land Development Regulations, Article, III, Zoning Districts, Part 5.0, Special Requirements for Specific Land Use Classifications, Section 5.26, Live Entertainment, is amended to read as follows:

Sec. 5.26. - Live entertainment.

5.26.1. *Live entertainment (indoors).*

A. ~~CR, CF, and CW and CE zoning districts.~~ Live entertainment is allowed as a permitted use in the Commercial Recreation, and Community Facility, and Commercial Warehouse zoning districts ~~and the Arts and Entertainment Overlay District~~ provided the live entertainment shall occur completely indoors.

1. The City Manager may repeal the live entertainment use if it is determined to have an adverse impact to the public safety, health and general welfare. A prima facie case for repealing the use shall be established if the City Manager finds that at least three (3) police incidents are attributable to the use within any one-year period.

B. *CC, CG and zoning districts.*

1. *Special exception use.* A special exception use development order from the City Commission shall be required for live entertainment (indoors) in the Community Commercial (CC) and General Commercial (CG) zoning districts unless exempted under subparagraph b. below.

2. *Exception.* Live entertainment (indoors) shall be allowed as a permitted use in the Community Commercial (CC), General Commercial (CG) provided one (1) of the following conditions are satisfied:

- a. The use occupies an entire freestanding building and the property where the building is located does not abut any residential or park zoning districts; or
- b. The use is located on an outparcel, it occupies an entire freestanding building, and the shopping center shields more than ninety (90) percent of the freestanding building from any abutting residential use or park zoning district.
- c. The City Manager may repeal the live entertainment use if it is determined to have an adverse impact to the public safety, health and general welfare. A prima facie case for repealing the use shall be established if the City Manager

finds that at least three (3) police incidents are attributable to the use within any one-year period.

C. CE and the Arts and Entertainment Overlay District

1. Live Entertainment (both indoors and outdoors) shall be allowed as a permitted use within the Commercial Entertainment Zoning District until 4:00 AM.
2. Live Entertainment (both indoors and outdoors) shall be allowed as a permitted use within the Arts and Entertainment District until 2:00 AM.
3. The City Manager may repeal the live entertainment use if it is determined to have an adverse impact to the public safety, health and general welfare. A prima facie case for repealing the use shall be established if the City Manager finds that at least three (3) police incidents are attributable to the use within any one-year period.

D. Alcoholic Beverage Establishment hours during which sales and consumption are prohibited shall follow Article III, Section 5.3.1.

* * *

SECTION 3. That Land Development Regulations, Article, III, Zoning Districts, Part 5.0, Special Requirements for Specific Land Use Classifications, Section 5.32, Restaurants, is amended to read as follows:

Sec. 5.32. - Restaurants.

5.32.1. *General.* The following shall apply to all restaurants, including restaurant bars:

A. *Prohibited hours of operation.*

1. *Arterial and collector roads.* Restaurants fronting on an arterial or collector road shall be closed during the following hours: Monday through Saturday, 2:00 a.m. to 5:30 a.m. and Sundays, 2:00 a.m. to 6:00 a.m.
2. *Local roads.* Restaurant fronting on local roads shall be closed during the following hours: Monday through Saturday, 10:00 p.m. to 7:00 a.m. and Sunday 5:00 p.m. to 9:00 a.m.

3. *Adjustments.* The City Commission, sitting as the Board of Adjustment, may adjust the days and hours of operation for a restaurant through the special exception use process.
4. *Amortization period.* Existing restaurants currently operating within the prohibited days and hours of operation may continue to operate until December 31, 2011. Thereafter, the restaurant will be an illegal nonconforming use.
5. *Exceptions: Hours of operation.* Restaurants, Restaurant-Bars and Bars and Taverns and Microbrewery, Brewery also including a Tap Rooms located within the CE zoning district shall be closed during the following hours: Monday – Saturday 4am to 7am and Sundays from 4am to noon.

Restaurants, Restaurant-Bars and Bars and Taverns and Microbrewery, Brewery also including a Tap Rooms located within the CW zoning district and the Arts and Entertainment Overlay District shall be closed during the following hours: Monday – Saturday 2am to 7am and Sundays from 2am to noon.

6. Alcoholic Beverage Establishment hours during which sales and consumption are prohibited shall follow Article III, Section 5.3.1.

* * *

5.32.3. *Accessory uses.* The following uses may be deemed accessory to a restaurant.

- A. *Banquet room.* A portion of the restaurant may be made available for private parties provided that the restaurant is made available to the general public at the same time.
- B. *Catering.* Food and meals prepared on the premises may be delivered to another location for consumption off premises.
- C. *~~Indoor~~ Live entertainment.*

1. Indoor live entertainment shall be allowed as an accessory use to a restaurant (or restaurant bar) provided all the following conditions are satisfied:

- 4.A. The restaurant does not exceed a size of two thousand five hundred (2,500) gross square feet;
- 2. B. The restaurant does not include any open area designed or used for dancing;
- 3. C. The restaurant does not have an elevated stage;
- 4. D. The number of performers cannot exceed two (2) persons; and
- 5. E. A cover charge, entrance or similar fee is not charged for admittance.
- 6. F. Exceptions:

1. Indoor live entertainment. Restaurants, Restaurant-Bars and Bars and Taverns located within the CE zoning district, and the CW zoning districts, and the Arts and Entertainment Overlay District shall be exempt to 5.32.3.C

2. Outdoor live entertainment shall be allowed as an accessory use to a restaurant (or restaurant bar) within the CE zoning district and the Arts and Entertainment Overlay District

3. The City Manager may repeal the live entertainment accessory use if it is determined to have an adverse impact to the public safety, health and general welfare. A prima facie case for repealing the use shall be established if the City Manager finds that at least three (3) police incidents are attributable to the use within any one-year period.

4. Alcoholic Beverage Establishment hours during which sales and consumption are prohibited shall follow Article III, Section 5.3.1.

* * *

SECTION 4. Code Of Ordinances, Chapter 14, Offenses And Miscellaneous Provisions, Article II, Offenses, Section 14-22, Noises, Section (e) is amended to read as follows:

(e) *Exclusions/exemptions.* None of the terms or prohibitions of subsection (b) hereof, except as provided herein, shall be applied to or enforced against:

- (1) Any vehicle of the city and licensed public utility vehicle within the city while engaged in necessary public business;
- (2) Excavations or repairs of bridges, streets, highways or utilities, by or on behalf of the city, county or the state during the night, when the public welfare and convenience renders it impossible to perform such work during the day;
- (3) The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character;
- (4) Noise generated for the purpose of alerting persons to the existence of an emergency or noise generated in the performance of emergency work.
- (5) Any landowner, property management company or renter during a state of declared emergency or during such times when electric power is not generally available within an area, for the noise generated by electric generation machines provided:
 - a. The electric generation machine is located on the property so as to minimize sound levels to surrounding land uses;
 - b. The electric generation machine does not generate sound levels louder than a similar electric generation machine that is well maintained; and
 - c. If required by a code or law enforcement official, the electric generation machine shall be bounded on three (3) sides by a temporary enclosure.

Notwithstanding the above, the city manager is empowered to establish prohibitions against the operation of an electric generation machine by land use, days, hours, type of electric generation machine or any combination of the preceding. Furthermore, a law or code enforcement official may require a landowner, property management company or renter to take such action to mitigate sound levels consistent with this section, such as, requiring the landowner or renter to relocate the electric generation machine.

- (6) Any landowner, company management company or renter for purposes of inspecting, testing and maintaining electric generation machines. The operation of electric generation machines for such purposes is limited to the time between 9:00 a.m. and 4:00 p.m. and for up to 30 minutes each month.
- (7) Sound Levels shall be limited to 65 dBA's for the Arts and Entertainment District, the Commercial Entertainment district, and the Light Industrial District to be measured from the abutting residential property line at all times.

SECTION 5. Findings and Conclusions. The Whereas clauses herein and the Development Review Report prepared by City staff is attached hereto, incorporated herein, and is hereby adopted as the findings of fact and conclusions of law to support the Ordinance amending the Land Development Regulations.

SECTION 6. Conflict. All ordinances or parts of ordinances, all resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed as to the extent of such conflict.

SECTION 7. Codification. The provisions of this Ordinance shall become and be made a part of the City of Lauderhill, Florida Land Development Regulations; sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; and the word "ordinance" may be changed to "article," "part," "section," or other appropriate word.

SECTION 8. Effective Date. This Ordinance shall take effect upon adoption.

DATED this _____ day of _____, 2019.

PASSED on first reading this _____ day of _____, 2019.

PASSED AND ADOPTED on second reading this _____ day of _____, 2019.

PRESIDING OFFICER

ATTEST:

CITY CLERK

FIRST READING

SECOND READING

MOTION
SECOND

M. BATES
H. BERGER
R. CAMPBELL
D. GRANT
K. THURSTON

