



## **DEVELOPMENT REVIEW REPORT**

### **ORDINANCE NO. 23O-XX-XXX**

The item before the Planning and Zoning Board (Board), sitting as the Local Planning Agency (LPA), is a proposed Ordinance of the City of Lauderhill, Florida; amending the Land Development Regulations (LDR) to amend Article III. Zoning Districts establishing a new methodology to measure the distances between tobacco stores and other uses; Providing for an effective date.

The Department recommends the Board enter into the record the Development Review Report and all other substantial competent evidence presented at the hearing, adopt the findings and conclusions contained herein, and forward the record to the City Commission with a recommendation the proposed Ordinance be adopted.

#### **I. BACKGROUND**

Staff is requesting an amendment to the Land Development Regulations to amend the method by which staff assesses the minimum distance between tobacco stores from schools and parks. Currently the adopted regulations require that all separation requirements be measured "shortest airline measurement" from property line to property line, unless otherwise mentioned in the Code. Alcoholic beverage uses are an example where the measurement method is unique. The method of measuring distances between new alcoholic beverage establishments from other existing alcoholic establishments, schools and parks is the: "shortest route of ordinary pedestrian travel along the public thoroughfare." The City Commission discussed this proposal with Staff at a Retreat held on January 25, 2024.

The proposed amendments include:

- Establishing new standards for measuring the distance between new Tobacco Stores and other existing tobacco stores, parks and schools.

## II. PROPOSED AMENDMENTS

### Article I- General Provisions

#### Sec. 1.5. - Definitions, general.

...

*Seasonal population:* Part-time inhabitants who utilize public facilities or services. Seasonal population shall include tourists, migrant farmworkers, and other short-term and long-term visitors.

*Separation standard or requirement or distance requirement:* The minimum distance between and among land uses as measured by the shortest airline measurements (or as the crow flies) between and among the nearest points on any plots to be occupied by such land uses. This definition shall apply to any separation standard identified within these Land Development Regulations unless the standard explicitly references that it is exempt from the definition in Section 1.5.

*Service station:* Any building used for retail sale and dispensing of automobile fuels or oils. A service station may furnish supplies, equipment, and minor repair services, to private passenger vehicles incidental to sale and dispensing of automobile fuels and oils.

...

### Article III- Zoning Districts

#### Section 5.3. – Alcoholic beverage uses

...

5.3.2. Separation requirements. Establishments which sell alcoholic beverages shall be subject to the following location limitations and requirements:

A. Distance between establishments. The following separation or distance standards shall apply:

1. On-premises. Establishments which sell alcoholic beverages for consumption on premises shall be located at least one thousand (1,000) feet from any other such establishment.
2. Off-premises. Establishments which sell alcoholic beverages for consumption off premises shall be located at least one thousand (1,000) linear feet from any other alcoholic beverage establishment.
3. On and off-premises. Any establishment which sells alcoholic beverages for consumption on and off premises shall be located at least one thousand (1,000) feet from any other establishment which sells alcoholic beverages for consumption on or off premises.

B. Distance from schools. It shall be unlawful to sell or dispense any alcoholic beverage within one thousand (1,000) feet of any public or private elementary or secondary school. The placement of a school shall not cause an establishment currently selling alcoholic beverages to cease to sell same.

C. Distance from houses of religious worship. It shall be unlawful to sell or dispense any alcoholic beverage within one thousand (1,000) feet of any house of religious

worship. The placement of a house of religious worship shall not cause an establishment currently selling alcoholic beverages to cease to sell same.

D. When distance requirements not applied. The separation standard or distance requirement set forth herein shall not be applied to the location of an existing alcoholic beverage establishment when there is

1. A renewal of an existing certificate of use;
2. A transfer in ownership;
3. A change in business name; or
4. A change in a state issued 4COP license to a 3PS license, and any decrease in the numerical designation of a state issued license which is of the same series (type) provided the physical location of the establishment does not change. No increases in the numerical designation of a series (type) of state issued license which is of the same series (type) shall be allowed at or for a location (new or existing) unless approved through the special exception use process.

5.3.3. Measurement. The separation standard methodology in Article I, Section 1.5., Definitions, General, shall not apply. Instead, for purposes herein, the distance shall be measured by the shortest route of ordinary pedestrian travel along the public thoroughfare or any walkway made available for public use from the main entrance of the establishment in question to the main entrance of the other establishment. Separation from the establishment and the public park shall be measured from main normal public entrance of the establishment in question to the nearest point of the public park property measured along public thoroughfares by the shortest route of ordinary pedestrian traffic.

...

Sec. 5.49. - Tobacco store.

5.49.1. A. Separation standard. There shall be a minimum one thousand (1,000) feet separation standard between a tobacco store and any other tobacco store, any private or public primary or secondary school, and any public park.

B. Measurement. The separation standard methodology in Article I, Section 1.5., Definitions, General, shall not apply. Instead, for purposes herein, the distance shall be measured by the shortest route of ordinary pedestrian travel along the public thoroughfare or any walkway made available for public use from the main entrance of the establishment in question to the main entrance of the other establishment. Separation from the tobacco store and the public park shall be measured from main normal public entrance of the establishment in question to the nearest point of the public park property measured along public thoroughfares by the shortest route of ordinary pedestrian traffic.

5.49.2. Warning labels. At least thirty (30) percent of any entry door shall be covered with the following language: "SURGEON GENERAL WARNING: Tobacco Smoke Increases The Risk Of Lung Cancer and Heart Disease, and Tobacco Use Increases The Risk Of Infertility, Stillbirth, and Low Birth Weight."

...

### III. **DATA AND ANALYSIS**

Data means factual information used as a basis for reasoning, discussion or calculation. Data must be based upon professionally reliable sources and the most recently available data should be used. Analysis involves an examination of the data, any assumptions, any employed

methodologies, any applicable regulations, and deducing findings of facts and conclusions needed in order to make a recommendation.

The Department concludes the applicable Land Development Regulations (LDR) include: Article IV., Part 2.0, Section 2.4., on criteria.

1. **Factors.** Article IV., Part 2.0., Section 2.4 requires the Board to consider and evaluate zoning regulation amendments in relation to all pertinent factors, but with reference to six (6) specific factors. These six (6) factors are addressed below in relation to the proposed Land Development Regulations amendment.

a. *The character of the district and its peculiar suitability for particular uses. (2.4.1.)*

This proposal will allow for additional tobacco stores to be permitted within the City. In almost all cases, the airline distance of 1,000 feet when compared to the shortest route of pedestrian travel, would be more restrictive.

b. *Conversion of the value of buildings and encouraging the most appropriate use of land and water throughout the City. (2.4.2.)*

Not applicable – this text amendment seeks to amend the method that Staff is evaluating the permitted use of Tobacco Stores at a proposed location

c. *The applicable portions of the adopted City Comprehensive Plan and programs such as land use, trafficways, recreation, schools, neighborhoods, drainage and housing, and so forth. (2.4.3.)*

The proposed Ordinance is consistent with the following Comprehensive Plan provisions:

POLICY 1.20.7 INNOVATIVE LAND DEVELOPMENT REGULATIONS

The City shall initiate amendments to the Land Development Regulations as needed.

d. *The needs of the City for land areas for specific purposes to serve population and economic activities. (2.4.4.)*

The proposed amendment is in response to a growing interest in tobacco and hookah uses.

e. *Whether there have been substantial changes in the character of development of areas in or near an area under consideration for rezoning. (2.4.5.)*

Not applicable –there is no rezoning under consideration.

f. *The facts and opinions presented to the Planning and Zoning Board through hearings. (2.4.6.)*

This Development Review Report represents the Department's written findings of facts, conclusions and recommendations.

2. **Procedure.** The LDR Article IV., Part 2.0., Section 2.9 addresses the procedure for zoning regulation amendments. It requires the Board to make a recommendation to the City Commission at a duly noticed public hearing on changes to zoning regulations and for the Board to forward its recommendation to the City Commission. The Department has interpreted this provision to apply to LDR amendments consistent with state law.
3. **Public notice.** The LDR Article IV., Part 2.0., Section 2.10 addresses public notice. Subsection 2.10.1 requires a change in zoning be published in a newspaper of general circulation in Broward County at least 10 days prior to the date of hearing. Notice of the proposed Ordinance changing the LDR was advertised in the Sun-Sentinel, a newspaper of general circulation within the County. Proof of publication is provided with the agenda package and is included herein by reference.

**IV. ATTACHMENTS**

N/A

**V. FINDINGS AND CONCLUSIONS**

Based upon the information contained in this Development Review Report, the following findings of fact and conclusions of law are offered:

- A. The Department finds the proposed Ordinance is in Compliance with the Goals, Objectives, and Policies of the Futures Land Uses Element of the Comprehensive Plan as it provides for clear land development regulation.
- B. The Department concludes the proposed Ordinance amending the LDR is in conformance with the standards and requirements specified in Land Development Regulations Article IV., Section 2.4., Basis for Recommendations.
- C. The Department finds the proposed Ordinance amending the LDR have been duly noticed and concludes it is in conformance with the public notice requirements.

**VI. ALTERNATIVE ACTIONS**

The Board has one of the following alternative actions at its disposal:

- A. Enter into the record the Development Review Report and all other substantial competent evidence presented at the hearing, adopt the findings and conclusions contained herein, and forward the record to the City Commission with a recommendation that the proposed Ordinance be adopted.
- B. Enter into the record the Development Review Report and all other substantial competent evidence presented at the hearing, amend the findings and conclusions contained herein to support the Board's recommendation, and forward the record to the City Commission with a recommendation that the proposed Ordinance be denied.

- C. Enter into the record the Development Review Report and all other substantial competent evidence presented at the hearing, amend the findings and conclusions contained herein to support any necessary conditions, and forward the record to the City Commission with a recommendation that the proposed Ordinance be adopted with conditions.
- D. Enter into the record the Development Review Report and all other substantial competent evidence presented at the hearing and table the proposed Ordinance until the specified information is provided.

**VII. RECOMMENDED ACTION**

- A. Department recommendation. The Department recommends the Board enter into the record the Development Review Report and all other substantial competent evidence presented at the hearing, adopt the findings and conclusions contained herein, and forward the record to the City Commission with a recommendation that the proposed Ordinance amending the LDR be adopted.
- B. Board recommendation. The proposed Ordinance is scheduled for January 30, 2024 Planning and Zoning Board regular meeting.
- C. City Commission action. First reading of the proposed Ordinance is tentatively scheduled for February 26, 2024 and second reading and adoption on March 11, 2024.