

ORDINANCE NO. 2022- 72

CITY OF POMPANO BEACH
Broward County, Florida

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, AMENDING CHAPTER 96, "HEALTH AND SAFETY," OF THE CITY OF POMPANO BEACH CODE OF ORDINANCES BY AMENDING SECTION 96.26, "PUBLIC NUISANCES," TO CLARIFY CERTAIN DEFINITIONS; AMENDING CHAPTER 155, "ZONING CODE," OF THE CITY OF POMPANO BEACH CODE OF ORDINANCES, BY AMENDING SECTION 155.2414., "ZONING USE CERTIFICATE," TO PROVIDE ADDITIONAL STANDARDS FOR APPROVAL, AND BY AMENDING SECTION 155.8402., "CIVIL REMEDIES," TO PROVIDE ADDITIONAL GROUNDS FOR REVOCATION OF ZONING USE CERTIFICATES; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

WHEREAS, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That Section 96.26, "Public Nuisances," of Chapter 96, "Health and Safety," of the Code of Ordinances of the City of Pompano Beach is amended to read as follows:

§ 96.26. PUBLIC NUISANCES.

...

(B) Definitions. For the purpose of this section, the following definitions shall apply.

BLIGHTING INFLUENCE. ~~Any physical condition of building or property, which~~ unlawful, offensive or hazardous condition or use of a structure or premises which, by reason of its appearance, directly or indirectly causes, or is likely to cause, an unreasonable interference with a public right or the public health, safety, or peace or a reduction in the value of surrounding properties.

...

PREMISES. Any land and any improvements, structure or property appurtenances including, but not limited to, any adjacent swale area, sidewalk or alley adjacent to private premises.

...

(C) The following are declared to be public nuisances when occurring upon any street, sidewalk, alley, or other public place or property, or upon any private property:

(1) Any unauthorized accumulation of construction debris, garbage, horticulture trash, or refuse.

(2) Any accumulation of stagnant water.

(3) ~~The presence of grass and/or weeds in excess of 12 6 inches in height from the ground up on any undeveloped non-residentially zoned property or the presence of grass and/or weeds in excess of 6 inches in height from the ground up on any developed property or on any undeveloped residentially zoned property within the city.~~

...

(14) A use, condition, activity, building, structure or premises that causes unreasonable, substantial and imminent interference with a right common to the general public including, but not limited to, the public health, morals, safety, peace, welfare, comfort or convenience, including those unlawful activities set forth in Sections 33.130 and 132.38 of the city's Code of Ordinances.

SECTION 2. That Section 155.2414., "Zoning Use Certificate," of Chapter 155, "Zoning Code," of the Code of Ordinances of the City of Pompano Beach is amended to read as follows:

§ 155.2414. ZONING USE CERTIFICATE

...

D. ZONING USE CERTIFICATE REVIEW STANDARDS

A Zoning Use Certificate shall be approved only on a finding that there is competent substantial evidence in the record that the new use, as proposed:

1. complies with all applicable standards of this Code, Florida Building Code and Florida Fire Prevention Code;
2. does not constitute an unsafe structure or a fire hazard as defined in Sections 116.2.1.1 - 116.2.1.3 of Chapter 1, Broward County Administrative Provisions for The Florida Building Code, as amended from time to time;
3. does not constitute a hazard or pose immediate danger to the occupants as determined by the Fire Chief in accordance with Section 95.01(C) of this Code, as amended from time to time; ~~and~~
4. does not constitute a public nuisance as defined within Sections 33.130, 96.26 (c)(14) or 132.38 of ~~this~~ the city's Code of Ordinances; and
5. is not located at a premises which constitutes a Chronic Nuisance Property as defined in Section 132.38 of the city's Code of Ordinances.

...

SECTION 3. That Section 155.8402., "Civil Remedies," of Chapter 155, "Zoning Code,"

of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

§ 155.8402. CIVIL REMEDIES

A. Issuance of Stop Work Order or Cease and Desist Notice

1. Whenever construction, demolition, renovation, alteration, or repair of a structure—or work involving landscaping or trees—is being conducted in violation of any applicable provision of this Code, the City may issue a Stop Work Order. The Stop Work Order shall be in writing, directed to the person doing the work, and shall state the specific work to be stopped, the specific reasons for cessation, and the action(s) necessary to lawfully resume work.

2. Whenever there is a business or commercial use, activity or conduct occurring without a Zoning Use Certificate or Business Tax Receipt, and such use, activity or conduct:
 - a. poses an immediate risk to the public health, safety and welfare;
 - b. contains commercial uses operating in a residential zoning district;
 - c. contains uses that are not permitted in the respective zoning district;
 - d. creates additional traffic or heavy vehicle operations;
or
 - e. constitutes a public or chronic nuisance as defined in Sections 33.130, 96.26 (c)(14) or 132.38 of the city's Code of Ordinances,

the Development Services Director has the discretion to issue a Cease and Desist Notice requiring the business or commercial operation to immediately cease the use, activity or conduct. The Cease and Desist Notice shall be in writing, directed to the business operator and the property owner, and shall state the specific use, activity or conduct that must be ceased, the specific reasons for cessation, and the action or actions necessary to lawfully resume such use, activity or conduct.

3. The Stop Work Order or Cease and Desist Notice issued by the Development Services Director may be appealed to the Zoning Board of Appeals pursuant to the provisions of Section 155.2424, Appeal. All other Stop Work Orders or Cease and Desist Notices may be appealed to the authority having jurisdiction.

B. REVOCATION OF PERMIT OR APPROVAL

1. General

The City may revoke any development order other than a Zoning Use Certificate by written notice to the holder when false statements or misrepresentations were made in securing the development order, work is being or has been done in substantial departure from the approved application

or plan, there has been a failure to comply with the requirements of this Code, or a development permit has been mistakenly granted in violation of this Code.

2. **Revocation of Zoning Use Certificate**

A Zoning Use Certificate may be revoked or suspended only in accordance with the following provisions:

- a. The Director of Development Services may revoke, upon written notice provided, an approved Zoning Use Certificate when same has been issued in error or otherwise in violation of the provisions of this Code. ~~Said~~ Such determination may be appealed to the Zoning Board of Appeals pursuant to the provisions of Section 155.2424, Appeal.
- b. The Special Magistrate may, following a public hearing, revoke or suspend a Zoning Use Certificate on a finding that any of the following conditions exist:
 - i. The holder of the Zoning Use Certificate used fraud or misrepresentation in its description of the conduct or specific nature of the activity at the premises in the application of the Zoning Compliance Permit or a Business Tax Receipt or otherwise provided misleading information in the application process; or
 - ii. The activity at the premises constitutes a public nuisance, based on the use of the business place or premises in a manner as specifically described in ~~Fla. Stat. § Sections~~ 893.138(2) (a) through (e) inclusive and (3), or 823.05 or 823.10, Florida Statutes; or
 - iii. That activity at the subject location qualifies the premises as a Public or Chronic Nuisance Property as defined in Sections 33.130, 96.26 (c)(14) or 132.38 of the city's Code of Ordinances; or
 - iii iv. The holder of the Zoning Use Certificate or any of the owners, directors, officers or

principals of the specified premises on the Zoning Use Certificate has, within three years of the application date, been convicted of the violation of any of the laws of the United States, the State of Florida or any other state, or the ordinances of the City, where the conviction is specifically related to the conduct of Zoning Use Certificate holder's present business; or,

~~iv. The holder of the Zoning Use Certificate has failed to maintain the location of the business in compliance with all applicable building and zoning codes and ordinances and has failed to cure violations of such codes and ordinances after receiving notice of the violation from the City.~~

...

3. Revocation of Community Residence and Recovery Community Certificate

A Community Residence and Recovery Community Certificate may be revoked or suspended only in accordance with the following provisions.

- a. The Director of Development Services may revoke, upon written notice provided, an approved Community Residence and Recovery Community Certificate when same has been issued in error or otherwise in violation of the provisions of this Code. Said determination may be appealed to the Zoning Board of Appeals pursuant to the provisions of Section 155.2424, Appeal.
- b. For Community Residence and Recovery Community Certificates that were issued based on inaccurate or fraudulent information, the Special Magistrate, following a public hearing, may revoke or suspend a Community Residence and Recovery Community Certificate on finding that any of the following conditions exist:
 - i. The holder of the Community Residence and Recovery Community Certificate used fraud or misrepresentation in its description of the

conduct or specific nature of the activity at the premises in the application for the Zoning Compliance Permit or a Business Tax Receipt; or

ii. The activity at the premises constitutes a public nuisance, based on the use of the business place or premises in a manner as specifically described in ~~in F.S. § Sections~~ 893.138(2) (a) through (e) inclusive and (3), 823.05 or 823.10, Florida Statutes; or

iii. That activity at the subject location qualifies the premises as a Public or Chronic Nuisance Property as defined in Sections 33.130, 96.26 (c)(14) or 132.38 of the city's Code of Ordinances; or

~~iii~~ iv. The holder of the Community Residence and Recovery Community Certificate or any of the owners, directors, officers or principals of the specified premises on the Community Residence and Recovery Community Certificate has been found guilty of or has entered a plea of nolo contendere to, regardless of adjudication, any offense listed in ~~F.S. §~~ 435.04 (2), F.S., unless the Department of Health has issued an exemption under ~~F.S. §~~ 397.4872, F.S.; or

~~iv.~~ The holder of the Community Residence and Recovery Community Certificate has failed to maintain the location of the community residence or recovery community in compliance with all applicable building and zoning codes and ordinances and has failed to cure violations of such codes and ordinances after receiving notice of the violation(s) from the City.

...

SECTION 4. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of

this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 5. This Ordinance shall become effective upon passage.

PASSED FIRST READING this 13th day of September, 2022.

PASSED SECOND READING this 27th day of September, 2022.

DocuSigned by:
Rex Hardin
502CB780EB3F480...

REX HARDIN, MAYOR

ATTEST:

DocuSigned by:
Asceleta Hammond
62AB0835850F4A1...

ASCELETA HAMMOND, CITY CLERK

JES:jrm
8/9/22
L:ord/ch155/2022-166

