

ORDINANCE NO. 2021-_____

**CITY OF POMPANO BEACH
Broward County, Florida**

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, AMENDING CHAPTER 155, "ZONING CODE," OF THE POMPANO BEACH CODE OF ORDINANCES, BY AMENDING SECTION 155.2414., "ZONING USE CERTIFICATE," TO PROVIDE ADDITIONAL STANDARDS FOR APPROVAL; 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 155.2414., "Zoning Use Certificate," of Chapter 155, "Zoning Code," of the Code of Ordinances of the City of Pompano Beach is hereby 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;
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 in~~ Sections 893.138(2) and (3), or 823.05 or 823.10, Florida Statutes, or in Sections 33.130, or 96.26 or 132.38 of this the city's Code of Ordinances.
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.
6. is not located at a premises which has been the subject of a civil citation pursuant to Section 37.12 of the city's Code of Ordinances and been found in violation by the city's Special Magistrate for Code Enforcement of any chapter or code section as set forth in Section 37.03 of the city's code for violations occurring on two or more occasions within a 30-day period or on four occasions within a 12-month period.

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SECTION 2. 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

...

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 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, and written notice to the property owner, 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 said premises as a Chronic Nuisance Property as defined in Section 132.38 of the city's Code of Ordinances.
- 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 v. 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(s) from the City.
- vi. The premises has been the subject of a civil citation pursuant to Section 37.12 of the city's code for violations occurring on two or more occasions within a 30-day period, or on four or more occasions within a 12-month period.

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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 ~~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 said premises as a Chronic Nuisance Property as defined in Section 132.38 of the city's Code of Ordinances.
 - ~~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 § 435.04 (2), F.S., unless the Department of Health has issued an exemption under § 397.4872, F.S.; or

~~iv~~ v. 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.

vi. The premises has been the subject of a civil citation pursuant to Section 37.12 of the city's code for violations occurring on two or more occasions within a 30-day period, or on four or more occasions within a 12-month period.

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SECTION 3. 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 4. This Ordinance shall become effective upon passage.

PASSED FIRST READING this _____ day of _____, 2021.

PASSED SECOND READING this _____ day of _____, 2021.

REX HARDIN, MAYOR

ATTEST:

ASCELETA HAMMOND, CITY CLERK

MEB/jrm
7/27/21
L:ord/ch155/2021-262