

REQUESTED COMMISSION ACTION:

Consent     
  Ordinance     
  Resolution     
  Consideration/ Discussion     
  Presentation

**SHORT TITLE**     
 **AN ORDINANCE OF THE CITY OF POMPANO BEACH, FLORIDA, PROVIDING FOR IMPOSITION OF A MORATORIUM ON ISSUANCE OF DEVELOPMENT ORDERS AND PERMITS AND ON THE PROCESSING OF APPLICATIONS RELATING TO HEALTH CARE USES, CHECK CASHING STORES, CONVENIENCE STORES, LIQUOR OR PACKAGE STORES, PAWN SHOPS, THRIFT SHOPS AND DORMITORIES WITHIN THE CITY; PROVIDING FOR VESTED RIGHTS; APPEALS; AND EXHAUSTION OF ADMINISTRATIVE REMEDIES; PROVIDING FOR A SIX MONTH TERM TO BE EXTENDED IF NECESSARY BY THE CITY COMMISSION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**Summary of Purpose and Why:**

At the June 9, 2015 City Commission hearing, Staff was directed to prepare a temporary moratorium for uses that have been identified as needing analysis of definitions, development and use specific standards, and distance separation requirements. The direction was for a 6-month moratorium. The moratorium is intended to allow sufficient time to study the provision of these uses for city residents and to create a long term strategy to ensure adequate access to such services is provided; to study the provision and location of these uses does not result in an over-concentration of these uses that will result in the blighting or downgrading of the surrounding neighborhood; and to study the provision of these uses to ensure that there is a balance between the existing residential uses and the projected demand for and location of these uses. Additionally, the moratorium is intended to allow sufficient time to study the provision of these uses and to determine the impact of these uses on the redevelopment planning efforts included in the Purpose of the Atlantic Boulevard Overlay District (AOD) and the Downtown Pompano Beach Overlay District (DPOD).

- (1) Origin of request for this action: Development Services Dept.
- (2) Primary staff contact: Robin M. Bird/ Karen Friedman KBF Ext. 7792
- (3) Expiration of contract, if applicable: N/A
- (4) Fiscal impact and source of funding: N/A

DEPARTMENTAL COORDINATION	DATE	DEPARTMENTAL RECOMMENDATION	DEPARTMENTAL HEAD SIGNATURE
Dev. Services	6/11/15	Approval	<i>[Signature]</i>
City Attorney	6/12/15		<i>[Signature]</i>
X City Manager	<i>[Signature]</i>		<i>[Signature]</i>

Ordinance Workshop	Resolution	Consideration
1 <sup>st</sup> Reading	1 <sup>st</sup> Reading	Results:
2 <sup>nd</sup> Reading		Results:

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

**AN ORDINANCE OF THE CITY OF POMPANO BEACH, FLORIDA, PROVIDING FOR IMPOSITION OF A MORATORIUM ON ISSUANCE OF DEVELOPMENT ORDERS AND PERMITS AND ON THE PROCESSING OF APPLICATIONS RELATING TO HEALTH CARE USES, CHECK CASHING STORES, CONVENIENCE STORES, LIQUOR OR PACKAGE STORES, PAWN SHOPS , THRIFT SHOPS AND DORMITORIES WITHIN THE CITY; PROVIDING FOR VESTED RIGHTS; APPEALS; AND EXHAUSTION OF ADMINISTRATIVE REMEDIES; PROVIDING FOR A SIX (6) MONTH TERM TO BE EXTENDED IF NECESSARY BY THE CITY COMMISSION; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Commission and the City’s Planning and Zoning Board, the Local Planning Agency, have previously undertaken the necessary studies and adopted a Comprehensive Plan to guide and control growth in the City; and,

**WHEREAS**, the goals, objectives and policies contained within the City’s adopted Comprehensive Plan require that the City:

- i. Annually review and periodically update adopted land development regulations and established procedures that encourage the elimination or reduction of uses inconsistent with the City's character and Future Land Use Plan. (Future Land Use Element - Objective Inconsistent Land Uses - 01.03.00)
- ii. Support and promote hotels, motels and other tourist accommodations in designated residential, commercial and commercial recreation land use designations. (Future Land Use Element – Policy - 01.03.10)
- iii. Encourage the adoption of innovative land development regulations. Adopt new land use designations for Residential, Mixed Use, Transportation Oriented Districts, Transportation

Oriented Corridors and amend the land development regulations, including the creation of new zoning districts for these land use designations. (Future Land Use Element - Objective New Land Use Regulations - 01.07.00)

- iv. Continually review and amend new land use designations for Residential, Mixed Use and Transportation Oriented Districts. (Future Land Use Element - Policy - 01.07.02)
- v. Through ongoing updates to the land development regulations revise prohibited and permitted uses in the commercial, industrial and non-residential zoning districts. (Future Land Use Element - Policy - 01.07.07)
- vi. Follow the recommendation of the Community Redevelopment Plans in all Land Use Plan amendments and rezonings. (Future Land Use Element – Community Redevelopment - 01.08.01)
- vii. Redevelopment activities in the Community Redevelopment Areas shall be guided by their respective Community Redevelopment Plans, adopted pursuant to Chapter 163, Part III, Florida Statutes. (Future Land Use Element - Policy - 01.11.03)
- viii. Establish criteria which encourage development of urban infill and community redevelopment areas to promote economic development, increase housing opportunities and maximize the use of existing public facilities and services. (Future Land Use Element - Objective Urban Infill Criteria - 01.12.00);

and,

**WHEREAS**, the City of Pompano Beach contains two (2) Community Redevelopment Areas: the West Pompano Beach District CRA, also known as the NW CRA, a 3,000 acre area established in 1989, and the East Pompano Beach District CRA, a 158 acre area, that was established in 2001; and

**WHEREAS**, the NW CRA and the EAST CRA areas were established for the purpose of removing existing slum and blight conditions and provide economic benefits to the City's residents; and

**WHEREAS**, the East CRA area encompasses the majority of lands contained within the Atlantic Boulevard Overlay District (AOD) and the NW CRA area encompasses the Transit Oriented – Downtown Pompano Beach Overlay District (DPOD); and

**WHEREAS**, the City adopted land development regulations for the AOD and the DPOD; and

**WHEREAS**, the projects and programs of the City’s Community Redevelopment Agency in the East CRA and in the NW CRA are designed to solve underlying problems that have a blighting influence on the redevelopment areas as further expressed in East CRA Redevelopment Plan and in the NW CRA Redevelopment Plan; and

**WHEREAS**, the AOD encompasses the Atlantic Boulevard Corridor which was included in a 2008 Urban Land Institute Technical Advisory Panel wherein the ULI recommended medium density, mixed-use development on Atlantic Boulevard; lower-scale development between the medium density and single family; creating great public spaces that exemplify and promote pedestrian activity; maintaining a small town feel and encouraging smaller scale (not big box) uses; and

**WHEREAS**, the AOD was also the subject of the City’s Beach Master Plan which was approved in September 2008, which included measures for the restoration of the dune system along the public beach; streetscape improvements and realignment for Pompano Beach Boulevard; streetscape improvements for the east end of Atlantic Boulevard; a mixed use project and parking garage with 500 parking spaces; a new Fire Station, Library and upgrades to North Riverside Drive Park; and

**WHEREAS**, the City’s Community Redevelopment Agency adopted an East Financing and Implementation Plan, which sets forth financial resources required and necessary for the

CRA to attain its redevelopment goals in the East CRA, which includes the majority of the AOD area; and

**WHEREAS**, the City’s Community Redevelopment Agency adopted a Northwest Financing and Implementation Plan, which sets forth financial resources required and necessary for the CRA to attain its redevelopment goals in the NW CRA; and

**WHEREAS**, in its adopted Comprehensive Plan, the City identified “Major Issue No. 5: City Sense of Place” wherein the City expressed that there is a unique opportunity for the City to capitalize on its key transportation corridors, its major attractions and the Northwest and East Redevelopment CRA’s to improve on its sense of place; and

**WHEREAS**, the City also adopted a Strategic Plan for the City of Pompano, wherein the City adopted the following strategies in support of the CRA redevelopment plans:

- i. 2.0 Tourism: Make the City more attractive to residents, visitors and tourists and expand visitor and tourism markets.
- ii. 5.0 Corridor Redevelopment: Enhance Corridor Redevelopment
  - 5.1 Begin implementation of corridor studies and plans for Federal Highway, Atlantic Boulevard and Dixie Highway
  - 5.2 Promote Class A office space development on Atlantic Boulevard near I-95 and along the Dixie corridor
  - 5.3 Support and facilitate development of an education corridor along MLK
  - 5.4 Improve overall aesthetic appearances
- iii. 6.0 CRA Redevelopment: Enhance CRA area redevelopment
  - 6.1 Expand CRA incentive programs

**WHEREAS**, the City has contracted with The Renaissance Planning Group to prepare corridor studies for Atlantic Boulevard, Dixie Highway and Federal Highway to identify

elements crucial to economic development and redevelopment along these major city transportation corridors; and

**WHEREAS**, the Zoning Code of the City of Pompano Beach, is designed to promote health, and general welfare, and to promote adequate light and air, and to prevent the overcrowding of land, and to avoid the undue concentration of population, and to facilitate adequate transportation, water, sewage treatment, schools, parks and other public requirements; and

**WHEREAS**, the process of growth and change within the City requires the continuing analysis of living and working conditions; and

**WHEREAS**, the health, safety and welfare of the citizens of Pompano Beach are proper and necessary for the consideration of the City Commission; and

**WHEREAS**, the continual flux of patterns in the urban community requires intensive restudy of areas of the community; and

**WHEREAS**, the changing patterns often cause existing zoning districts to become outdated, inequitable, unbalanced and inappropriate as applied; and

**WHEREAS**, it is in the public interest to make a determination as to whether existing zoning uses throughout the city are appropriate where it appears that changing patterns have cast doubt on their propriety; and

**WHEREAS**, it is in the public interest to review the Zoning Code so as to ensure that the City's citywide economic redevelopment efforts are not frustrated due to a proliferation of incompatible uses; and

**WHEREAS**, it is in the public interest to protect the substantial financial investment the City has made throughout the city in recent years to promote economic redevelopment; and

**WHEREAS**, the moratorium is intended to allow sufficient time to study the provision of these uses throughout the city for the citizens of Pompano Beach and to create a long term strategy to ensure adequate access to such services is provided; and

**WHEREAS**, the moratorium is intended to allow sufficient time to study the provision and location of these uses throughout the city in a manner that does not result in an over-concentration of these uses that will further result in the blighting or downgrading of the surrounding neighborhood; and

**WHEREAS**, the moratorium is intended to allow sufficient time to study the provision of these uses throughout the city to ensure that there is a balance between the existing residential uses and the projected demand for and location of these uses; and

**WHEREAS**, the moratorium is also intended to allow sufficient time to study the provision of these uses within the AOD and the DPOD, East CRA, NW CRA, corridors connecting the CRA areas and the corridors being studied by The Renaissance Planning Group and to determine the impact of these uses on the economic redevelopment efforts included in the City's Comprehensive Plan, the City's Community Redevelopment Plans, the CRA East Financing and Implementation Plan, the CRA NW Financing and Implementation Plan, the City's Beach Master Plan, and the City's Strategic Plan; and

**WHEREAS**, while the study conducted by The Renaissance Planning Group will address the City's major transportation corridors, additional studies are needed to address the impact of permitted and prohibited uses throughout the City; and

**WHEREAS**, the City desires to ensure, while necessary studies are presently underway for the formulation and implementation of remedial measures referenced herein, that additional Applications, Orders and Permits, as specified in the City's Code of Ordinances ("CODE") listed

below not be processed or issued in the City within the scope of the moratorium which is described herein:

Health Care Uses (Code Sec. 155.4209), Check Cashing Store (Code Sec. 155.4221.C), Convenience Store (Code Sec. 155.4222.F), Liquor or Package Store (Code Sec. 155.4222.K), Pawn Shop (Code Sec. 155.4222.L), Thrift Shop (Code Sec. 155.4222.M) and Dormitory (Code Sec. 155.4303.II);

and

**WHEREAS**, in accordance with Florida Statutes, Section 166.041 (3)(c)2, advertisement in accordance with said statute have been published in a newspaper of general paid circulation in the City of Pompano beach and of general interest and readership in the community, notifying the public of two public hearings on this proposed Ordinance; and

**WHEREAS**, two public hearings have been held pursuant to said published hearings and all persons so desiring had the opportunity to be and were, in fact, heard; now therefore,

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

**SECTION 1. Moratorium Imposed; Applicability.**

A. During the time that this Ordinance is in effect as specified herein, there shall be a citywide moratorium upon the acceptance of applications and the issuance of Development Orders and Permits, as defined in Section 163.3164, Florida Statutes, (collectively “Development Orders”) approving Health Care Uses (Code Sec. 155.4209), Check Cashing Store (Code Sec. 155.4221.C), Convenience Store (Code Sec. 155.4222.F), Liquor or Package Store (Code Sec. 155.4222.K), Pawn Shop (Code Sec. 155.4222.L), Thrift Shop (Code Sec. 155.4222.M) and Dormitory (Code Sec. 155.4303.II).

**SECTION 2. Vested Rights.**

A. Nothing in this Ordinance shall be construed or applied to abrogate the vested right of a property owner to complete development where the property owner demonstrates each of the following:

1. A governmental act of development approval obtained prior to the effective date of this Ordinance; and
2. Upon which the owner has detrimentally relied, in good faith, by making such a substantial change in position or incurring such extensive obligations and expenses; and
3. That it would be highly inequitable to deny the property owner the right to complete development.

B. Except as provided by paragraph (C) below, any property owner claiming to have vested rights under this Section must file an application with the City Manager for a vested rights determination within thirty (30) days after the effective date of this Ordinance. The application shall be accompanied by a fee of \$1,500.00 and contain a sworn statement as to the basis upon which the vested rights are asserted, together with documentation required by the City Manager and other documentary evidence supporting the claim. The City Manager shall review the application and, based upon the evidence submitted, shall make a determination as to whether the property owner has established vested rights. The City Manager's decision shall be subject to appeal by the applicant for vested rights determination or by a third party claiming to be adversely affected by the City Manager's decision, provided that the third party can demonstrate a legally recognizable interest which is or will be affected by the decision and that such interest, which while it may be shared in common generally with other members of the community, is definite and exceeds in degree the general interest in the community good shared by all persons. Such appeals may be made to the City Commission by notice of appeal filed with the City

Manager within ten (10) days after the City Manager's written decision. In the event of a timely appeal, the City Commission shall hold a public hearing on appeal and, based upon the evidence submitted, shall make a determination as to whether or not the property owner has established vested rights. To the extent that a property owner demonstrates vested rights, the moratorium shall not be applied to that owner.

C. Any property owner establishing vested rights under this Section shall not be subject to this moratorium and shall be authorized to apply for Orders, and Permits in accordance with a Vested Rights Determination Agreement to be executed by the City and the property owner. A copy of the Vested Rights Determination Agreement shall be filed with the City Clerk, accompanied by a letter which references this paragraph (C) within Forty-five (45) days after the effective date of the City Commission's determination under this Section.

**SECTION 3. Appeals.** Appeals from final decision by the City Commission under Section 2 of this Ordinance shall be by the filing of a Petition for Certiorari in the Circuit Court of the Seventeenth Judicial Circuit in and for Broward County in accordance with the Florida Rules of Appellate Procedure for the review of the quasi-judicial rulings of municipalities.

**SECTION 4. Exhaustion of Administrative Remedies.** No property owner claiming that this Ordinance as applied constitutes or would constitute a temporary or permanent taking of private property or an abrogation of vested rights may pursue such claim unless he or she has first exhausted all administrative remedies provided for in Section 2.

**SECTION 5. Term.** The moratorium imposed by this Ordinance is temporary and, unless dissolved earlier by the City, shall automatically dissolve in six (6) months from the effective date of this Ordinance unless otherwise extended in accordance with applicable law.

The moratorium may be reasonably extended, if, necessary, by Ordinance of the City Commission.

**SECTION 6. Conflicts.** All Sections or parts of Sections of the Code of Ordinances, all Ordinances or parts of Ordinances, and all Resolutions, or parts of Resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

**SECTION 7. Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decisions shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**SECTION 8. Effective Date.** This Ordinance shall become effective upon passage.

**PASSED FIRST READING** this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

**PASSED SECOND READING** this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

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**LAMAR FISHER, MAYOR**

**ATTEST:**

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**ASCELETA HAMMOND, CITY CLERK**

GBL/tal/ds:jrm  
6/16/2015  
l:ord/2015-367a