

**CITY OF HOLLYWOOD, FLORIDA
DEPARTMENT OF DEVELOPMENT SERVICES
DIVISION OF PLANNING AND URBAN DESIGN**

DATE: May 14, 2024 **FILE:** 24-T-15

TO: Planning and Development Board

VIA: Anand Balram, Planning Manager

FROM: Tasheema Lewis, Associate Planner

SUBJECT: Text Amendment to Articles 2, 3 and 4 of the Zoning and Land Development Regulations amending the permitted uses relating to Smoke Shops East of the Intracoastal Waterway.

REQUEST:

A Text Amendment to Articles 2, 3 and 4 of the Zoning and Land Development Regulations amending the permitted uses relating to Smoke Shops east of the Intracoastal Waterway.

RECOMMENDATION:

The Planning and Development Board, acting as the Local Planning Agency, forward ***a recommendation of approval*** to the City Commission.

BACKGROUND

Florida State Statute Chapter 163

Pursuant to Chapter 163.3161 of Florida Statutes (F.S.), it is the intention of law that local governments preserve, enhance, and encourage appropriate use of land, consistent with the public interest. Through the process of comprehensive planning, it is intended that local government preserve, promote, protect, and improve the public health, safety, comfort, good order, appearance, convenience, and general welfare of its constituents.

BrowardNext- Broward County Land Use Plan

Broward County governs the land uses designation county-wide. However, the exact boundaries for zoning are determined by the local government within reasonable limitations. Local governments determine those uses which are permitted, allowed via special exceptions, or not permitted, with direction of the County's Land use Plan. Commerce Use is a Broward County Land Use designation that allows retail, among many other uses, as a permitted use. Under the designation of Commerce, local land uses may be designated as Commercial, Employment Center, Industrial, or Office Park.

City of Hollywood Comprehensive Plan and City-Wide Master Plan

The 'General Business' land use designation of the City of Hollywood's Land Use Element conforms with the Broward County Land Use Plan 'Commerce' designation which permits commercial uses, such as retail. Based on the permissions of the land use designations, zoning districts are established. The City adopted the following commercial districts in Sub-Area 4, referred to as the Beach District:

- Beach Resort Commercial District (BRT-25-C)
- Beach Resort A1A Commercial District (BRT-25-A1A-C)
- Broadwalk Historic District Commercial (BWK-25-HD-C)

The above referenced zoning districts are depicted in Attachment A. These areas reflect the only opportunities absent of the proposed provisions where Smoke Shops could be located East of the Intracoastal Waterway.

Objective 10 of the City's Comprehensive Plan encourages the centralization of commercial, retail, and other uses and activities within the Downtown and Beach Community Redevelopment Agencies, to promote the use of existing infrastructure and to accommodate growth in an orderly, efficient, and environmentally acceptable manner. *Policy 10.5* requires the encouragement and expansion of businesses and public improvements that are "family oriented." Although, Smoke Shops (23-T-30) pursuant to the newly adopted definition in Article 2.2 of the Zoning and Land Development Regulations is a retail use, Staff finds this use to be in conflict with the intent of the retail with the CRA Beach Districts. Smoke Shops include the sale of certain substances such as synthetic cannabis, hemp, and CBD which can have both potential risks. In addition, the use of Smoke Shop products is for adult consumption. Products for adult consumption do not serve the "family oriented" business expectation of *Policy 10.5*. "Family oriented" implies that business uses within the Beach Districts should complement the character and vision of the Broadwalk in a manner that serves the public realm by furthering the goal of protecting the neighborhood and quality of life of the City's residents and visitors.

REQUEST

In an effort to uphold the Objectives, Goals, and Policies of the City's Comprehensive and City-Wide Master, the proposed text amendment to the Zoning and Land Development Regulations is intended to amend the permitted uses relating to Smoke Shops east of the Intracoastal Waterway in the following subsequent manner.

* * *

§ 2.2 Terms Defined.

COMMERCIAL USE. *COMMERCIAL USES - activities within land areas which are predominantly connected with the sale, rental and distribution of goods or services.*

ACCESSORY USES. *A use that is naturally and customarily incidental to, subordinate to, and subservient to the permitted principal use that contributes to the comfort, convenience, or necessity of the principal use. Such uses shall be located on the same lot as the principal use with the exception of accessory off-street parking, which may be permitted within 700 feet of the principal use.*

* * *

§ 4.6.C. Beach Community Redevelopment Districts.

b. Beach Resort Commercial District- BRT-25-C

(1) Uses:

(a) Main permitted uses:

- (i) Commercial;***
- (ii) Hotels and motels;***
- (iii) Bed & Breakfast;***
- (iv) Offices;***
- (v) Personal services;***
- (vi) Retail;***
- (vii) Restaurants; and***
- (viii) Boat rental (excluding jet skis).***

(b) Special exception:

- (i) Places of public assembly, including places of worship, meeting halls and fraternal lodges; and***
- (ii) Schools, public or private, including adult educational facilities.***

(c) Accessory uses: Any use that is customarily associated with the main permitted uses, excluding Smoke Shops.

(d) Prohibited uses:

- i. Any other use not listed as a main permitted use;***
- ii. Smoke Shops;***
- iii. Adult Uses.***

d. Beach Resort A1A Commercial District – BRT-25-A1A-C

(1) Uses:

(a) *Main permitted uses:*

- (i) *Commercial;*
- (ii) *Hotels and motels;*
- (iii) *Bed & Breakfast;*
- (iv) *Offices;*
- (v) *Personal services;*
- (vi) *Retail;*
- (vii) *Restaurants; and*
- (viii) *Boat rental (excluding jet skis).*

(b) *Special exception:*

- (i) *Places of public assembly, including places of worship, meeting halls and fraternal lodges; and*
- (ii) *Schools, public or private, including adult educational facilities.*

(c) *Accessory uses: Any use that is customarily associated with the main permitted uses, excluding Smoke Shops.*

(d) *Prohibited uses:*

- i. *Any other use not listed as a main permitted use;*
- ii. *Smoke Shops;*
- iii. *Adult Uses.*

f. Broadwalk Historic District Commercial – BWK-25-HD-C

(1) Uses:

(a) *Main permitted uses:*

- (i) *Commercial;*

- (ii) *Hotels and motels;*
- (iii) *Bed & Breakfast;*
- (iv) *Offices;*
- (v) *Personal services;*
- (vi) *Retail;*
- (vii) *Restaurants; and*
- (viii) *Boat rental (excluding jet skis).*

(b) *Special exception:*

- (i) *Places of public assembly, including places of worship, meeting halls and fraternal lodges; and*
- (ii) *Schools, public or private, including adult educational facilities.*

(c) *Accessory uses: Any use that is customarily associated with the main permitted uses, excluding Smoke Shops.*

(d) *Prohibited uses:*

- i. *Any other use not listed as a main permitted use;*
- ii. *Smoke Shops;*
- iii. *Adult Uses.*

* * *

SITE INFORMATION

Owner/Applicant: City of Hollywood
Address/Location: Citywide

CONSISTENCY WITH THE COMPREHENSIVE PLAN

The proposed text amendments are consistent with the Comprehensive Plan, based upon the following:

Goal: *Promote a distribution of land uses that will enhance and improve the residential, business, resort, and natural communities while allowing landowners to maximize the use of their property.*

The proposed text amendment is consistent with the City's Comprehensive Plan goal to encourage positive economic development by providing consistency among similar uses.

CONSISTENCY WITH THE CITY-WIDE MASTER PLAN

The City-Wide Master Plan is a compilation of policy priorities and recommendations designed to improve the appearance, appeal, and economic tax base of the City. It establishes a format for future direction and vision for the City. The proposed text amendment is consistent with the City-Wide Master Plan based upon the following Guiding Principle:

Guiding Principle: *Promote the highest and best use of land in each sector of the City without compromising the goals of the surrounding community.*

APPLICABLE CRITERIA

Analysis of Criteria and Findings for Text Amendments as stated in the City of Hollywood's Zoning and Land Development Regulations, Article 5.

CRITERIA 1: The proposed change is consistent with the Goals, Objectives and Policies of the adopted Comprehensive Plan as amended from time to time.

ANALYSIS: Prohibiting Smoke Shop retail establishments within the Beach Districts is consistent with the Goals, Objectives, and Policies of the Comprehensive Plan which encourages "family oriented" businesses and provides for a mixture of permitted uses. The objective is to encourage the centralization of commercial, governmental, retail, residential, and cultural activities to promote growth in an orderly, efficient, and environmentally acceptable manner.

Recently, the City adopted a Smoke Shop ordinance (23-T-30) that established distance separation for Smoke Shops. The purpose of the distance separation ordinance is to help regulate the concentration of businesses that sell substances such as synthetic cannabis, hemp, and CBD which can have potential health risks. In 2023, the Department of Agriculture uncovered over nearly 70,000 illegal products during Florida's largest hemp inspection sweep. This inspection sweep occurred in an effort to protect children from illegal sale of hemp extract products marketed to minors. Based on this press release by Department of Agriculture Commissioner, staff believes Smoke Shops can become gateways for easily accessible illicit drug use, creating concerns for public health and safety. Hollywood Beach and its famous Boardwalk is visited by millions of families state-wide and abroad. As a result, Smoke Shops as a retail establishment, is not deemed to be a "family oriented" business, does not contribute to the vision and character of the Hollywood Beach Districts, and can impact the overall community feel.

These factors align with the goal of the Comprehensive Plan to promote a distribution of land uses that will enhance and improve the residential, business, resort, and natural communities.

FINDING: Consistent

CRITERIA 2: That conditions have substantially changed from the date the present zoning regulations were established.

ANALYSIS: The number of Smoke Shop retail establishments has substantially changed. Prior to 2015, there were no Certificate of Use applications for Smoke Shops. Between 2015 and 2018, there were only seven (7) Smoke Shop businesses within the City. The increase began in 2019, where a total of 31 smoke shops emerged between 2019 and 2023, existing in close proximity. This is directly contributed to the legalization of hemp in 2019 under Senate Bill CB/CB/SB 1020: State Hemp Program. This Bill instructed the Department of Agriculture and Consumer Services to legalize the manufacturing and sale of hemp.

The purpose of prohibiting Smoke Shops within the Beach Districts is not only to promote public health and safety, prevent over-concentration of smoking-related businesses, and mitigate potential negative impacts on community character and identity, but to uphold the objectives and goals of the Comprehensive Plan for the Beach Districts. This regulatory approach addresses concerns related to underage exposure, community aesthetics, and potential externalities associated with clustering of like businesses.

FINDING: Consistent

ATTACHMENTS

ATTACHMENT A: Commercial Beach Districts Zoning Map