



AGENDA ITEM MEMORADUM

Town Attorney

Susan L. Trevarthen

Department

Department Director

COMMISSION MEETING DATE (*) - 7:00 PM	Deadline to Town Clerk
<input checked="" type="checkbox"/> Oct 25, 2011	Oct 14th

*Subject to Change

- Presentation Reports Consent **Ordinance**
- Resolution Quasi-Judicial Old Business New Business

FY2011 DESIGNATED HIGH PRIORITY ITEM - PRIORITY TOPIC

SUBJECT TITLE: **Ordinance 2011-18: 2012 Election Dates Ordinance And Analysis Of Town Charter And Code Requirements**

EXPLANATION: Attached is an Ordinance 2011-18 (**Exhibit 1**) setting the election, qualifying dates and schedule for swearing in of the newly elected officials for the 2012 elections to coincide with the January 31, 2012 Presidential Preference Primary as permitted under Section 101.075, Florida Statutes. The attached Ordinance 2011-18 (**Exhibit 1**) providing for the 2012 election and qualifying dates will be effective on the day of approval, scheduled for November 8, 2011 which will also be the first day of qualifying. The Ordinance will be effective as of 12:01 A.M. on the effective date and therefore qualifying documents submitted on November 8, will comply with the Ordinance. The qualifying period closes on November 22 as required by the Supervisor of Elections' schedule. The Ordinance will also schedule the swearing in of the newly elected officials, as directed by the Town Commission.

A separate Agenda Item, also provided for your review and discussion, is an Ordinance which would address these issues on an ongoing basis.

Below is a discussion of some of the issues that have been raised in relation to the elections process.

HISTORY AND DETERMINATION OF APPLICABLE LAW

In review and preparation of the attached item we were asked to review several issues presented to the Town Commission at its October 11, 2011 meeting. Provided to us, for the first time, for this review was Ordinance 2007-13 (**Exhibit 2**) which revised election dates, qualifying dates, and swearing in dates for the 2008 election. Ordinance 2007-13 also changed all subsequent election, qualifying and swearing in dates which occurred during years in which a Presidential Preference Primary occurred. The Ordinance did *not* provide for codification and thus the changes were not added to the Town Code.

All portions of Ordinance 2007-13 were unintentionally repealed by Ordinance 2010-04 (**Exhibit 3**). We prepared the Ordinance to amend Chapters 2 and 7 of the Town's Code to eliminate conflicts with the elections portion of the Charter and other portions of the Code. Specifically, Sections 2 and 3 of Ordinance 2007-13 set election dates and qualifying dates, and these provisions were repealed by the adoption of Section 3 in Ordinance 2010-03 which amended Sections 7-1 and 7-3 of the Town Code. Section 4 of Ordinance 2007-13 set the schedule for swearing in of newly elected officials; it was repealed by the adoption of Section 2 of Ordinance 2010-04 which amended Section 2-17 of the Town Code to address the same issue. Therefore, based on the information we have been provided to date,



the Town's elections are currently governed by the Town Charter, Chapters 2 and 7 of the Town Code and Florida Statutes.

ALL ELECTIONS AT-LARGE

A question was raised whether Seat 3, North District, and Seat 4, South District, which are proposed in this Ordinance for election on January 31, 2012, are to be elected "at-large" or by "single member districts" – i.e. each seat voted upon by the entire Town, or each seat voted on by only those voters who reside within the district which the seat represents. Section 6.1(2) of the Charter provides that Seats 1 and 2 are "each elected at-large." Section 6.1(3) describes the election of Seats 3 and 4 but does not include the same, or similar, language providing for elections at-large.

First, it should be noted that the 2008 elections for Seats 3 and 4, the first election of these seats under the revised Charter language, were conducted as "at-large" elections. Second, the legal presumption in the event that the issue is not addressed, is that the election will be at-large. The application of a "single member district" election protocol would require notice of the intent to restrict the election process. The 2004 election ballot to amend the Charter to provide for the district elections specifically states that ALL the seats were to be elected "at-large"¹. In addition, the Charter language itself, while silent on the "at-large" issue for Seats 3 and 4, does not include contrasting language to provide for single-member district elections of Seats 3 and 4. Therefore, based on the evidence of intent shown in the 2004 ballot question, the actual implementation of the 2008 elections as "at-large" elections, and the absence of single member district voting language in the Charter, the absence of the language "each elected at-large" in the paragraph governing Seats 3 and 4 should be treated as a scrivener's error. Seats 3 and 4 should be elected at-large.

TERMS OF OFFICE

An additional question was raised regarding the duration of the terms of the offices, given that the January 31, 2012 election date is two days later than the January 29 election four years ago for the Commission Seats, and over 2 months earlier than the March 2010 election for the Mayor-Commissioner office. These two different offices are addressed differently in the Charter and, based on the change to the term, are affected differently by the proposed change in election date, as described below.

1. Town Commissioners – Seats 3 and 4

a. Extending the length of term

First, each of the Commission seats are described by the Charter as being for a "term of four years". However, pursuant to Florida Law and as addressed in the attached Ordinance, the existing Commissioners will continue in office until the newly elected officials are sworn in. The revision of election dates and the related Commissioners' terms of office are provided for in State Law and

¹ 2004 Charter Amendment – Ballot Question 1

"DESIGNATION OF TOWN COMMISSIONER SEATS ONE THROUGH FOUR BY DISTRICT.

The charter provides for electing Commissioners without regard to where they live in the Town. Should the Charter be amended to establish four seats elected at large but from districts; ..."



have been addressed by the Florida Attorney General, and all authorities conclude that the current terms will be extended by operation of law until the election.

Section 101.75, Florida Statutes, provides,

(3) Notwithstanding any provision of local law or municipal charter, the governing body of a municipality may, by ordinance, move the date of any municipal election to a date concurrent with any statewide or countywide election. The dates for qualifying for the election moved by the passage of such ordinance shall be specifically provided for in the ordinance. The term of office for any elected municipal official shall commence as provided by the relevant municipal charter or ordinance.

Florida Statutes also specifically provides that terms in office can be adjusted as necessary to provide for the orderly transition of offices, when necessitated by a change in election dates. Section 166.021(4) reads in relevant part:

"However, nothing in this act shall be construed to permit any changes in a special law or municipal charter which affect . . . the terms of elected officers and the manner of their election *except for the selection of election dates and qualifying periods for candidates and for changes in terms of office necessitated by such changes in election dates, . . . without approval by referendum of the electors as provided in s. 166.031. . . .*" (emphasis added)

Section 100.3605, Florida Statutes, addresses the conduct of municipal elections and Subsection (2) of section 100.3605 provides:

"The governing body of a municipality may, by ordinance, change the dates for qualifying and for the election of members of the governing body of the municipality and provide for the orderly transition of office resulting from such date changes."

This issue was also directly addressed directly by the Florida Attorney General. The Attorney General summarizes:

"Accordingly, I am of the opinion that [a city] . . . pursuant to sections 166.021(4) and 100.3605, Florida Statutes, may . . . by ordinance . . . move the dates of city elections from March to November to coincide with federal, state, and county elections, and to extend the terms of the sitting commissioners to November" FL. AGO 2003-52.

Therefore, the terms of office for the current elected Town Commissioners in Seats 3 and 4 will be extended by the proposed Ordinance until the successor to the Office is sworn in, to accommodate the revised election date which coincides with the Presidential Preference Primary and to effectuate the orderly transition of office.

b. Alternate Swearing-in Dates

There are two alternatives for the swearing in of the Town Commissioners, if the election is to be held on January 31, 2012.



- (1) The first is that they are sworn in the second Tuesday following the election. This seats the new officers in office at the first regular Commission Meeting after the election, because under the Federal requirements, the Supervisor of Elections cannot certify the election results until 10 days after the election, which would be the Friday prior to the regularly scheduled meeting, therefore, the traditional swearing in on the Monday following the election will not be possible.
- (2) Alternatively, the Commissioners could be sworn in in March, as will occur with the Mayor-Commissioner as discussed below. Under this alternative, both the Town Commissioners and the Mayor-Commissioner elected in January 2012 will be sworn in on March 19, 2012 (the first Monday after the second Tuesday in March). This will result in an approximately five week extension of the sitting Town Commissioner's terms for this 2012 election, but will put the terms of all future elections on the same schedule.

These two alternatives are shown as SECTION 4 and ALTERNATE SECTION 4 in the attached Ordinance, for the 2012 election. The companion agenda item provides similar alternatives for future elections.

2. Mayor-Commissioner

The Mayor-Commissioner's term of office is "for a term of two years until his [sic] successor is elected and qualifies." Thus, while arguably under the discussion above the Mayor-Commissioner term could be adjusted to be less than the two years, terms may not be shortened below the legally provided minimum term unless agreed to by the holder of the office whose term is being shortened. Therefore, even if elected January 31, 2012, the Mayor-Commissioner-elect should not be sworn in until March 19, 2012 (the first Monday after the second Tuesday in March), pursuant to the existing schedule under the Town Code for a March Election, unless otherwise agreed by the current Mayor.

EXPECTED OUTCOME: Direct the scheduling of the Town Commissioners' swearing in ceremony as outlined in SECTION 4 or in ALTERNATE SECTION 4 and approve the attached Ordinance (Exhibit 1) on First Reading.

Exhibit 1 – Ordinance 2011-18

Exhibit 2 – Ordinance 2007-13

Exhibit 3 – Ordinance 2010-04

Exhibit 4 – Charter, Article 6 – "Elections"

Exhibit 5 – Supervisor of Elections, Schedule of Important Dates

Reviewed by Town Attorney

Yes No

Town Manager Initials

ORDINANCE 2011-18

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AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA SETTING JANUARY 31, 2012 FOR THE TOWN'S 2012 GENERAL MUNICIPAL ELECTIONS DATE TO COINCIDE WITH THE PRESIDENTIAL PREFERENCE PRIMARY DATE AS ALLOWED BY SECTION 101.75, FLORIDA STATUTES; ESTABLISHING THE QUALIFYING PERIOD FOR THE 2012 GENERAL MUNICIPAL ELECTIONS TO OCCUR FROM NOON ON TUESDAY, NOVEMBER 8, 2011 THROUGH NOON ON TUESDAY, NOVEMBER 22, 2011, AS REQUIRED BY THE SUPERVISOR OF ELECTIONS; PROVIDING FOR THE DATE ON WHICH ELECTED OFFICERS TAKE OFFICE; PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, Section 101.75, Florida Statutes, provides that the Presidential Preference Primary shall occur on the last Tuesday in January, which for the 2012 Presidential Preference Primary Election will be on January 31, 2012; and,

WHEREAS, Section 101.75, Florida Statutes, provides authority for municipalities that would otherwise conduct their General Municipal Elections in March of the years in which there is a Presidential Preference Primary, to move their elections to the same date as the Presidential Preference Primary by adopting an ordinance; and,

WHEREAS, the Broward County Supervisor of Elections ("Supervisor") has established dates and deadlines for the January 31, 2012, election, and has provided that all qualifying periods be completed no later than Tuesday, November 22, 2011 in order to meet the Supervisor's timeline for preparation of the January 31, 2012, ballot; and,

WHEREAS, should the Town of Lauderdale-By-The-Sea, Florida (hereinafter referred to as the "Town") decide to hold a separate General Municipal Election in March, then the Town will be responsible for the total election costs of approximately \$30,000.00;

ORDINANCE 2011-18

1 however, if the Town modifies its 2012 General Election date to coincide with the
2 Presidential Preference Primary, then it shall only be responsible for limited election costs
3 resulting in a significant financial savings to the Town; and

4 **WHEREAS**, Section 101.75, Florida Statutes, provides for the ordinance moving the
5 Town's General Municipal Election, to establish a two-week qualifying period for the
6 election; and

7 **WHEREAS**, the Town Commission deems it to be in the best interests of the citizens
8 and residents of the Town to modify its General Municipal Election in 2012, to coincide with
9 the Presidential Preference Primary; and

10 **WHEREAS**, The Town Commission desires to schedule the swearing in of duly
11 elected officers.

12 **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF**
13 **THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA THAT:**

14 **SECTION 1.** The foregoing "Whereas" clauses are hereby ratified and confirmed as
15 true and correct and incorporated herein by this reference.

16 **SECTION 2.** The Town Commission of the Town of Lauderdale-By-The-Sea,
17 Florida, pursuant to the authority of §101.75, Florida Statutes, modifies the date of its 2012
18 General Municipal Election to occur on January 31, 2012 to coincide with the Presidential
19 Preference Primary.

20 **SECTION 3.** The Town Commission hereby provides that the qualifying period for
21 the 2012 General Municipal Election shall run for fourteen (14) calendar days from noon on

ORDINANCE 2011-18

1 Tuesday, November 8, 2011 through noon on Tuesday, November 22, 2011.

2 **SECTION 4.** Town Commissioners who are elected in the January 2012 election
3 shall be sworn in and assume the duties of office at the commencement of a Commission
4 meeting that shall be held the second Tuesday after the election.

5 **OR**

6 **ALTERNATE SECTION 4.** Town Commissioners who are elected in the January
7 2012 election shall be sworn in and assume the duties of office on March 19, 2012. If,
8 subsequent to the January 31, 2012 election and prior to March 19, 2012, the occupant of the
9 office resigns, the newly elected Town Commissioner shall be sworn in as soon as possible at
10 a properly convened Special Meeting of the Town Commission, subsequent to the
11 certification of the election results.

12 **SECTION 5.** The Mayor-Commissioner who is elected in the January 2012 election
13 shall be sworn in and assume the duties of office at the commencement of a special
14 Commission meeting that shall be held on March 19, 2012. If, subsequent to the January 31,
15 2012 election and prior to March 19, 2012, the occupant of the office resigns, the newly
16 elected Mayor-Commissioner shall be sworn in as soon as possible at a properly convened
17 Special Meeting of the Town Commission, subsequent to the certification of the election
18 results.

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20 certification of the election results, upon if such resignation occurs subsequent to the election
21 on January 31, 2012 and before March 19, 2012.

ORDINANCE 2011-18

1 **SECTION 6.** The term of office for the Town Commissioners currently seated in
2 Seat 3 and in Seat 4 shall, pursuant to the authority of F.S. § 101.3605 and § 166.021(4), be
3 extended until their successors to office are sworn in. The term of office for the current
4 Mayor-Commissioner shall remain the same.

5 **SECTION 7.** All Ordinances or parts of Ordinances, Resolutions or parts of
6 Resolutions in conflict herewith are hereby repealed to the extent of such conflict.

7 **SECTION 8.** If any clause, section or other part of this Ordinance shall be held by
8 any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or
9 invalid part shall be considered as eliminated and in no way affecting the validity of the other
10 provisions of this Ordinance.

11 **SECTION 9.** This Ordinance shall take effect immediately upon its adoption.

12 Passed on the first reading, this ____ day of _____, 2011.

13 Passed on the second reading, this ____ day of _____, 2011.

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Mayor Roseann Minnet

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	First Reading	Second Reading
Mayor Minnet	_____	_____
Vice-Mayor Dodd	_____	_____
Commissioner Clotney	_____	_____
Commissioner Sasser	_____	_____
Commissioner Vincent	_____	_____

26 **Attest:**

ORDINANCE 2011-18

1 _____
2 Town Clerk, June White, CMC
3 (CORPORATE SEAL)
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6 **Approved as to form:**
7 _____
8 Town Attorney, Susan L. Trevarthen

ORDINANCE 2007-13

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AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE BY THE SEA, FLORIDA PROVIDING FOR THE MODIFICATION OF THE TOWN'S GENERAL MUNICIPAL ELECTION DATES TO COINCIDE WITH THE PRESIDENTIAL PREFERENCE PRIMARY DATE IN 2008 AND IN EACH SUBSEQUENT YEAR THAT IS A MULTIPLE OF FOUR (4) PURSUANT TO SECTION 101.75, FLORIDA STATUTES; SPECIFICALLY PROVIDING FOR THE 2008 GENERAL MUNICIPAL ELECTION IN THE TOWN TO OCCUR ON JANUARY 29, 2008; PROVIDING FOR THE QUALIFYING PERIOD FOR THE GENERAL MUNICIPAL ELECTIONS, AND SPECIFICALLY FOR THE QUALIFYING PERIOD FOR THE 2008 MUNICIPAL GENERAL ELECTION TO OCCUR BETWEEN NOON ON FRIDAY, NOVEMBER 2, 2007 THROUGH NOON ON FRIDAY, NOVEMBER 16, 2007; PROVIDING FOR THE DATE ON WHICH ELECTED OFFICERS TAKE OFFICE; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, during the 2007 Legislative Session, the Florida Legislature amended Section 101.75, Florida Statutes, to move the Presidential Preference Primary to the last Tuesday in January, which for the 2008 Presidential Election will be on January 29, 2008; and,

WHEREAS, the amendment to Section 101.75, Florida Statutes, provides authority for municipalities that would otherwise conduct their General Municipal Elections in March of the years in which there is a Presidential Preference Primary to move their elections to the same date as the Presidential Preference Primary by adopting an ordinance; and,

WHEREAS, Section 101.75, Florida Statutes, provides for the ordinance moving the

CODING: Words in ~~struck through~~ type are deletion from existing law;
Words in underscored type are additions.

1 Town's General Municipal Election, to establish a two-week qualifying period for the
2 election; and,

3 **WHEREAS**, the Broward County Supervisor of Elections has established dates and
4 deadlines for the January 29, 2008, election, and has established the two-week period of noon
5 on Friday, November 2, 2007 through noon, Friday, November 16, 2007 as a uniform
6 qualifying period in Broward County that would satisfy the requirements of Section 101.75
7 and the Broward Supervisor of Elections' timeline for the January 29, 2008, election; and,

8 **WHEREAS**, should the Town of Lauderdale By The Sea, Florida (hereinafter
9 referred to as the "Town") decide to hold a separate General Municipal Election in March
10 then the Town shall be responsible for the total election costs of approximately \$30,000.00;
11 however if the Town modifies its general election date to coincide with the presidential
12 preference primary then it shall only be responsible for limited election costs resulting in a
13 significant financial savings to the Town; and

14 **WHEREAS**, the Town Commission deems it to be in the best interests of the citizens
15 and residents of the Town to modify its General Municipal Election in 2008 and in each
16 subsequent year that is a multiple of four (4), accordingly, to coincide with the presidential
17 preference primary.

18 **WHEREAS**, Section 7-4 of the Town's Code of Ordinance allows for the
19 establishment of a specific day, to be decided by ordinance, on which duly-elected municipal
20 officers shall take office. The Town Commission has determined to fix a date certain for the
21 swearing in of duly elected officers ceremony in lieu of the generic reference to the "Friday

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1 following the regular election" referenced in Section 2-17 of the Code of Ordinances.

2 **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF**
3 **THE TOWN OF LAUDERDALE BY THE SEA, FLORIDA THAT:**

4 **Section 1.** The foregoing "Whereas" clauses are hereby ratified and confirmed as
5 true and correct and incorporated herein by this reference.

6 **Section 2.** The Town Commission of the Town of Lauderdale By The Sea,
7 Florida, pursuant to the authority of §101.75, Florida Statutes, modifies the date of its General
8 Municipal Election in 2008 and, to the extent there is an election in the Town, in each
9 subsequent year that is a multiple of four (4), accordingly, to coincide with the Presidential
10 Preference Primary in those years. In 2008, the Town's General Municipal Election shall
11 occur on January 29, 2008.

12 **Section 3.** The Town Commission hereby provides that the qualifying period for
13 the 2008 General Municipal Election and the General Municipal Election in each subsequent
14 year that is a multiple of four (4), shall run for fourteen (14) calendar days. For the 2008
15 General Municipal Election, the qualifying period will be from noon on November 2, 2007
16 through noon on November 16, 2007. The dates for the two week qualifying periods for
17 future General Municipal Elections in years that are a multiple of four (4) shall be established
18 by Resolution of the Town Commission upon receipt of election timelines and dates from the
19 Broward County Supervisor of Elections for those elections.

20 **Section 4.** Municipal officers who are elected in the January 2008 election shall
21 be sworn in and assume the duties of office at the commencement of a special Commission

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1 meeting that shall be held the second day (excluding Saturday and Sunday) following the
2 certification of election results by the Supervisor of Elections. For elections conducted after
3 2008, municipal officers shall be sworn in and take office at the commencement of a special
4 Commission meeting that shall be held the second day (excluding Saturday and Sunday)
5 following the certification of election results by the Supervisor of Elections.

6 **Section 5.** All Ordinances or parts of Ordinances, Resolutions or parts of
7 Resolutions in conflict herewith are hereby repealed to the extent of such conflict.

8 **Section 6.** If any clause, section or other part of this Ordinance shall be held by
9 any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or
10 invalid part shall be considered as eliminated and in no way affecting the validity of the other
11 provisions of this Ordinance.

12 **Section 7.** This Ordinance shall take effect immediately upon its adoption.

13 **FIRST READING** this 11th day of September, 2007.

14 **SECOND, FINAL READING AND PASSAGE** this 25th day of September, 2007.

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22 Mayor Oliver Parker

	First Reading	Second Reading
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25 Vice-Mayor Yanni	<u>Aye</u>	<u>Aye</u>
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27 Mayor Pro Tem Clark	<u>Aye</u>	<u>Aye</u>
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29 Commissioner Silverstone	<u>Aye</u>	<u>Aye</u>

CODING: Words in ~~struck through~~ type are deletion from existing law;
Words in underscored type are additions.

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Commissioner McIntee

 Nay Aye

Mayor Oliver Parker

 Aye Aye

Attest:

 June White
Town Clerk

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CODING: Words in ~~struck through~~ type are deletion from existing law;
 Words in underscoring type are additions.

ORDINANCE 2010-04

AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE SEA, AMENDING CHAPTER 2 "ADMINISTRATION", ARTICLE II "TOWN COMMISSION" AND CHAPTER 7 "ELECTIONS" OF THE TOWN CODE OF ORDINANCES, IN ORDER TO ADDRESS CONFLICTS WITH THE TOWN CHARTER AND WITHIN THE CODE REGARDING ELECTION PROCEDURES; PROVIDING FOR SEVERABILITY, CONFLICT AND AN EFFECTIVE DATE

WHEREAS, the Town Commission of the Town of Lauderdale-By-The-Sea recognizes it is in the Town's best interest to amend the general administrative Town Code provisions so as to provide for continued updating, remove obsolete provisions, and comply with recent case law, legislative changes and custom and usage within the Town; and

WHEREAS, the Town Commission finds that this Ordinance shall accomplish such purposes.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AS FOLLOWS:

SECTION 1. Recitals. The foregoing "Whereas" clauses are ratified and confirmed as being true, correct and reflective of the legislative intent underlying this Ordinance and are hereby made a specific part of this Ordinance.

SECTION 2. Amendment. Article II "Town Commission" of Chapter 2 "Administration" is hereby amended¹ as follows:

* * * * *

Sec. 2-17. Meeting to seat new members.

On the ~~Friday~~ Monday following the regular election at which a Town Commissioner shall be elected in accordance with Section 6.1 of the Town Charter, the Town Commission shall meet at the usual place for holding meetings of the legislative body of the Town, at which time the newly elected Town Commissioner(s) shall assume the duties of his or her office.

* * * * *

¹ Words in ~~strike through~~ type are deletions; words in underlined type are additions.

ORDINANCE 2010-04

37 **SECTION 3. Amendment.** Chapter 7 "Elections" is hereby amended as follows:

38 **Sec. 7-1. Qualification fees.**

39
40 Candidates for any municipal office in the Town shall file such papers as set out in the Charter
41 and pay a filing fee of \$25.00 with the Town Auditor-Clerk not earlier than noon on the seventy-
42 fifth (75th) day prior to the date of the election first workday in January, nor later than noon on
43 the 14th sixty-first (61st) day prior to the date of the election, following the first workday in
44 January.

45
46 **Sec. 7-2. No primary elections.**

47
48 There shall be no primary election in races for municipal office in the Town.

49
50 **Sec. 7-3. Election dates; forfeiture, vacancies, qualifications for and terms of elected**
51 **municipal office.**

52
53 (a) ~~The date of elections, forfeiture of office, method of filling vacancies, qualifications for~~
54 ~~candidates, and elections in the Town shall be held on the second Tuesday in March.~~

55 (b) ~~The terms of all elected municipal officers shall be as provided in the Town Charter~~
56 ~~correspond to the dates provided in this chapter and Laws of Florida, Chapter 75-350, as~~
57 ~~amended.~~

58
59 **Sec. 7-4. ~~Manner of election and taking office.~~ Reserved.**

60
61 (a) ~~The candidate or candidates, depending upon the number to be elected, receiving the highest~~
62 ~~number of votes in the election, shall be the winner or winners.~~

63 (b) ~~Such duly-elected municipal officers shall take office within 14 days after the election, the~~
64 ~~specific day to be decided by ordinance.~~

65
66 **Sec. 7-5. Canvassing of votes.**

67
68 All municipal elections shall be canvassed by the county canvassing board with the board
69 certifying the results to the Town Auditor-Clerk within five days after the election.

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71 **SECTION 4. Codification.**

72 This Ordinance shall be codified in accordance with the foregoing. It is the intention of the
73 Town Commission that the provisions of this Ordinance shall become and be made a part of the
74 Town of Lauderdale-by-the-Sea Code of Ordinances; and that the sections of this Ordinance may be
75 renumbered or re-lettered and the word "ordinance" may be changed to "section", "article" or such
76 other appropriate word or phrase in order to accomplish such intentions.

77 **SECTION 5. Severability.**

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ORDINANCE 2010-04

78 If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or
79 unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the
80 validity of the remaining portions of this Ordinance.

81 **SECTION 6. Conflicting Ordinances.**

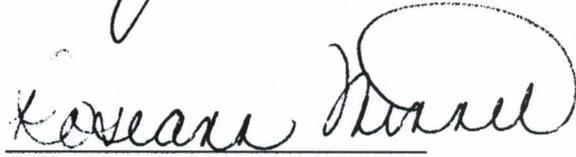
82 All prior ordinances or resolutions or parts thereof in conflict herewith are hereby repealed
83 to the extent of such conflict.

84 **SECTION 7. Effective Date.**

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86 This Ordinance shall become effective immediately upon passage on second reading.

87 Passed on the first reading, this 22 day of June, 2010.

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89 Passed on the second reading, this 27 day of July, 2010.

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Mayor Roseann Minnet

98 First Reading Second Reading

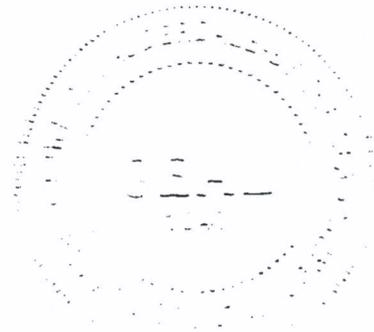
99 Mayor Minnet	<u>Aye</u>	<u>Aye</u>
100 Vice-Mayor Dodd	<u>Aye</u>	<u>Aye</u>
101 Commissioner Clottey	<u>Aye</u>	<u>Aye</u>
102 Commissioner Sasser	<u>Aye</u>	<u>Aye</u>
103 Commissioner Vincent	<u>Aye</u>	<u>Aye</u>

104 Attest:

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106 
107 Town Clerk, June White

108 (CORPORATE SEAL)

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ORDINANCE 2010-04

110 Approved as to form:

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Susan L. Trevarthen

Town Attorney, Susan L. Trevarthen

Lauderdale-By-The-Sea, Florida, Code of Ordinances >> PART I - CHARTER >> ARTICLE VI. - ELECTIONS >>

ARTICLE VI. - ELECTIONS

Sec. 6.1. - Mayor-Commissioner and Commissioners; term of office; election; transition.

Sec. 6.2. - Vice Mayor and acting Mayor Pro-Tem.

Sec. 6.3. - Qualifications of members of Town Commission.

Sec. 6.4. - Qualifications of candidates; notice of candidacy; payment of fee.

Sec. 6.5. - Vacancies.

Sec. 6.6. - Forfeiture of office.

Sec. 6.7. - Forfeiture hearing and process.

Sec. 6.8. - Filling of vacancies.

Sec. 6.9. - Extraordinary vacancies.

Sec. 6.1. - Mayor-Commissioner and Commissioners; term of office; election; transition.

- (1) Beginning with the regular election to be held on the second Tuesday in the month of March, 2008, and every two (2) years thereafter, a Mayor-Commissioner shall be elected for a term of two (2) years until his successor is elected and qualifies.
- (2) Commencing with the regular election of the Town held in March, 2006, and continuing with successive elections at intervals of four years, candidates may qualify for the offices of Town Commissioner Seat 1 and Town Commissioner Seat 2, each elected at large. Town Commission Seat 1 and Town Commission Seat 2 shall replace the two Commission seats vacated by the expiration of the term of the two Commissioners in March, 2006. The candidate for Seat 1 shall reside in the north district of the Town. The candidate for Seat 2 shall reside in the south district of the Town. The candidates receiving the most votes for each seat shall be elected, and shall serve a term of four (4) years.
- (3) Commencing with the regular election of the Town held in March, 2008, and continuing with successive elections at intervals of four years, candidates may qualify for the offices of Town Commission Seat 3 and Town Commissioner Seat 4. Town Commission Seat 3 and Town Commission Seat 4 shall replace the two Commission seats vacated by the expiration of the term of two Commissioners in March of 2008. The candidate for Seat 3 shall reside in the north district of the Town. The candidate for Seat 4 shall reside in the south district of the Town. The candidates receiving the most votes for each seat shall be elected, and shall serve a term of four years.
- (4) All elections for the position of Town Commissioner or Mayor-Commissioner shall be held on the second Tuesday of March of each even-numbered year, or as provided for by law.
- (5) The geographic boundary for the northern and southern districts shall be designated, prepared and identified no later than the first of September, 2004, and again in 2012 through a contract entered into by the Town with an accredited four (4) year college or university located within the state of Florida for the purpose of identifying and designating the northern and southern election districts within the Town. The Town Commission district boundaries shall be of equal population, compact, proportional, and logically related to the natural internal boundaries of the neighborhoods within the Town. The principal of nondiscrimination and one person/one vote shall be adhered to strictly.
- (6) In the event no candidate qualifies for election for any designated Town Commission seat within the first ten (10) calendar days of the qualifying period, then any qualified person who resides anywhere in the Town may qualify for such seat. Thereafter, if no person qualifies for such seat, a vacancy shall be declared and filled in accordance with this Charter.
- (7) The Town Commission shall adopt by Ordinance the creation and establishment of the boundaries of the initial northern and southern Town Commission seat districts no later than January 1, 2005. The Ordinance shall provide for the implementation of said election districts to be effective for the elections to be held in the Town commencing in March, 2006.

Sec. 6.2. - Vice Mayor and acting Mayor Pro-Tem.

On the second Tuesday following each regular election, one (1) member of the Town Commission may be designated, by resolution, as Vice Mayor to preside in the absence of the Mayor-Commissioner. In the event that the designated Mayor-Commissioner and the Vice Mayor are absent at any meeting of the Town Commission, any member of the Town Commission may be designated by the Town Commission to act as Mayor Pro-Tem for such meeting.

Sec. 6.3. - Qualifications of members of Town Commission.

- (1) To be eligible to hold the office of Mayor-Commissioner or Commissioner of the Town of Lauderdale-By-The-Sea, or to qualify for candidacy for Mayor-Commissioner or Commissioner, the individual shall be a bona fide resident and citizen of the Town of Lauderdale-By-The-Sea, shall have resided in the said town for the six (6) months immediately preceding the date of election, shall be a registered voter pursuant to Florida law, and shall be otherwise qualified as provided for in the Charter.
- (2) No person may be a candidate for Commissioner, nor may be appointed to fill a vacancy as a Commissioner, if that person has served during both of the two preceding consecutive Commission terms for that seat as a Commissioner or a Mayor-Commissioner or both, without a two year break in service.
- (3) No person may be a candidate for Mayor-Commissioner, nor may be appointed to fill a vacancy as the Mayor-Commissioner, if that person has served during each of the three preceding consecutive Mayor-Commissioner terms as a Mayor-Commissioner.
- (4) Service of one year or less of a term by a person who had not previously served as either a Commissioner or Mayor-Commissioner shall not be considered for purposes of term limits.
- (5) Service for purposes of term limits shall be determined as of the time the person would take office.

Sec. 6.4. - Qualifications of candidates; notice of candidacy; payment of fee.

Any individual who possesses the qualifications as provided in this Charter, may be a candidate for the office of Mayor-Commissioner or Commissioner by filing a verified notice of candidacy for Town Commission with the Town Clerk. Such notice shall be in the following form:

NOTICE OF CANDIDACY FOR
TOWN COMMISSIONER OR MAYOR-COMMISSIONER

I, _____ (Name of Candidate) _____, residing at _____
(Residence Address of Candidate) _____/_____/_____, Lauderdale-
By-The-Sea, Broward County, Florida, do hereby give notice of my candidacy for the office of
Town Commissioner/Mayor-Commissioner of the Town of Lauderdale-By-The-Sea, Florida, in the
forthcoming election to be held in said Town on _____ (Date of Primary) _____.
I do further state that I am a citizen of the United States of America, and a resident of the Town of
Lauderdale-By-The-Sea; that I have resided in the Town of Lauderdale-By-The-Sea for the six (6)
months immediately preceding the date of the election to be held; and that I have fully satisfied all
conditions precedent to such candidacy, pursuant to the provisions of the laws of the State of
Florida and the Town Charter.

.....
.....(Candidate's Signature)

STATE OF FLORIDA
COUNTY OF BROWARD

Before me, the undersigned authority, this day personally appeared _____ (Name
of Candidate) _____ who, upon being duly sworn, deposed and said: that he/she is the
candidate referred to in the foregoing Notice; that he/she is familiar with the contents of said
Notice, and that the facts and matters therein stated are true; and that he/she did sign said Notice
for the purpose therein specified.

.....
.....(Candidate)

Sworn to and subscribed before me, this the _____ day of
_____/_____/_____, 20_____.

Notary Public, State of Florida

My commission expires: _____

The individual who files the notice as prescribed, and who pays the qualifying fee as prescribed, if otherwise

found to be qualified, shall be entitled to have his/her name printed upon the official ballot at such town election.

Sec. 6.5. - Vacancies.

The office of a Commissioner, or the office of the Mayor-Commissioner, shall become vacant upon the person's death, resignation, removal from office in any manner authorized by law, or forfeiture of the office, such forfeiture to be declared by the remaining members of the Town Commission.

Sec. 6.6. - Forfeiture of office.

A Commission member, or the Mayor-Commissioner, shall forfeit the office if the person:

- (1) Lacks, at any time during a term of office, any qualification for the office prescribed by this Charter or general law;
- (2) Violates any standard of conduct or code of ethics established by law for public officials;
- (3) Is convicted of a felony while in office;
- (4) Fails to attend four (4) consecutive regular meetings of the Town Commission without being excused by the Town Commission by formal action entered upon the minutes; or
- (5) Becomes incapable of performing the duties of the office for a period of more than three (3) months.

In all circumstances arising under this section, the Town Commission shall be the judge of its own membership.

Sec. 6.7. - Forfeiture hearing and process.

A member of the Town Commission charged with conduct constituting grounds for forfeiture of his office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers of general circulation in the Town at least thirty days before the scheduled hearing. The Town Commission shall be the sole judge of the qualifications of its members and shall hear all questions relating to forfeiture of a Commissioner's or Mayor-Commissioner's office, including whether or not good cause for absence has been, or may be, established. The Commissioner in question shall have the burden of establishing good cause for absence; provided, however, that any Commissioner may at any time during any duly held meeting move to establish good cause for his or her absence or the absence of any other Commissioner, from any past, present, or future meeting(s), which motion, if carried, shall be conclusive. A Commissioner whose qualifications are in question, or who is otherwise subject to forfeiture of his/her office, shall not vote on any such matters. Any final determination by the Town Commission that a Commissioner or the Mayor-Commissioner has forfeited his or her office shall be made by resolution approved by a unanimous vote of the remaining members of the Town Commission. All votes and other acts of the Commissioner in question prior to the effective date of such resolution shall be valid regardless of the grounds of forfeiture.

Sec. 6.8. - Filling of vacancies.

A vacancy on the Town Commission, including the office of Mayor-Commissioner, shall be filled in the following manner:

- (1) If there are less than one hundred eighty (180) days remaining in the unexpired term, or if there are less than one hundred eighty (180) days before the next federal, state, county or Town election, the remaining Commissioners, including the Mayor-Commissioner, shall, by majority vote, appoint a successor within thirty (30) days of the occurrence of the vacancy from among all qualified applicants. The person or persons so appointed must possess all of the required qualifications to be a member of the Town Commission. The Commissioner or Mayor-Commissioner appointed by the Town Commission to fill the vacancy as specified herein shall serve only until the next federal, state, county, or Town election. Further, the Commissioner or Mayor-Commissioner elected at such election shall serve only the unexpired term of the Commissioner or Mayor-Commissioner whose position became vacant.
- (2) If there are more than one hundred eighty (180) days remaining on an unexpired term, or if there are more than one hundred eighty (180) days before the next federal, state, county, or Town election, the Town Commission shall schedule a special election to be held no sooner than ninety (90) days nor more than one hundred twenty (120) days following the occurrence of the vacancy. The Commissioner or Mayor-Commissioner elected to fill the vacancy at any special election shall serve only the unexpired term of the Commissioner or Mayor-Commissioner whose position became vacant.
- (3) In the event of the death, resignation, or removal of the Mayor-Commissioner, the Vice Mayor shall forthwith commence to serve as interim Mayor-Commissioner until the position of Mayor-

Commissioner is filled by election or appointment. When the Vice Mayor becomes interim Mayor-Commissioner, the Town Commission, by majority vote shall appoint one of the remaining Commissioners to become interim Vice Mayor. The Commissioner serving as Mayor-Commissioner, or the Vice Mayor, shall serve as Commission-Mayor, or Vice Mayor, until the newly elected or appointed Commissioner-Mayor, or Vice Mayor, is sworn into office. The interim Mayor-Commissioner, and interim Vice Mayor shall then return to the positions of Vice Mayor and Commissioner which he/she previously held to serve the remainder of his or her unexpired term.

- (4) In the event of the death, resignation, or removal of the Vice Mayor, the Town Commission shall, by majority vote, elect one of the Commissioners to serve as Vice Mayor.

Sec. 6.9. - Extraordinary vacancies.

In the event that all members of the Town Commission are removed by death, disability, or forfeiture of office, the Governor of the State of Florida shall appoint an interim Town Commission that shall call a special election as provided above to fill the vacancies.

2012 DATES TO REMEMBER

(for January 31, 2012 Election)

SOE Revised 10-18-11

- Oct. 9, 2011-Nov. 7, 2011
Notice of Election (Section 100.021, F.S. During the 30 days prior to qualifying publish notice twice, stating what office and vacancies are to be filled at the election.)
- Oct. 11
Noon, the last date to submit petitions to the Supervisor of Elections if qualifying by the petition method (Section 99.095(3), F. S. 28 days prior to qualifying)
- Oct. 29
Resignations due pursuant to Resign-to-Run Law (Section 99.012, F.S. - At least 10 days prior to the first day of qualifying for office)
- Nov. 1
Last day for the Supervisor of Elections to certify candidate petitions (Section 99.095(3), F. S. 7 days prior to qualifying.)
- Nov. 8
Noon, qualifying begins.
- Nov. 22
Noon, qualifying ends
- Nov. 22
5:00 p.m., ballot information for Election is due to the Supervisor of Elections office. Information should be faxed and e-mailed to the office. Faxed copies of the Loyalty Oaths are also requested.
- Nov. 22
Last date to notify Supervisor of Elections if an election is NOT necessary
- Dec. 16
Treasurer's Report (G1), 46th day Report covering 10/1/11 – 12/9/11 due for Municipalities (Section 106.07(a), F.S. - 46 days immediately preceding the election)
- Dec. 22
Last date for Municipal Clerks to remit filing fees to the Department of State. (Section 99.093, F.S. - Within 30 days after close of qualifying)
- Dec. 29
Resignations due pursuant to Resign-to-Run Law (Section 99.012, F.S. - At least 10 days prior to the first day of qualifying for office)
- Dec. 30
Treasurer's Report (G2), the 32nd day Report covering 12/10/11-12/23/11, due for Municipalities (Section 106.07(a), F.S. - 32 days immediately preceding the election)
- Jan. 3
Last date to register to vote for the General Election (Section 97.055, F.S. - On the 29th day before election)
- Jan. 13
Treasurer's Reports (G3), the 18th day Report covering 12/24/11-1/6/12 due for the Election. (Section 106.07(a), F.S. - 18 days immediately preceding the Election)

- Jan. 16 Last date to deliver collateral material (if applicable) to the Supervisor of Elections for the Election to be included with the Precinct Clerk's supplies for posting in the precincts
- Jan. 17 Noon, poll watcher applications due for Election (Section 101.131, F.S. – Prior to noon of the second Tuesday preceding the Election)
- Jan. 18 **Tentative date** for the L&A test prior to the Election. (Section 101.5612, F.S.)
- Jan. 24 Last date for Supervisor of Elections to approve poll watchers for Election (Section 101.131 F.S. - On or before the Tuesday before the election)
- Jan. 26 Midnight, last date for opposed candidates to accept contributions for Election. (Section 106.08, F.S. - Contributions may not be accepted less than five days prior to election.)
- Jan. 27 Treasurer's Reports (G4), the 4th day Report covering 1/7/12-1/26/12 due for the General Election (Section 106.07(a), F.S. - 4 days immediately preceding the election.)
- Jan. 30 Last date to publish sample ballot for General Election (Section 101.20, F.S. - Prior to day of the election)
- Jan. 31 **Municipal General Elections (if voting concurrent with the Presidential Preference Primary)** (LOF 2007-30 amending 101.75)(Formerly Laws of Florida 75-350, Section 3 - All general elections shall be held on the second Tuesday in March, except in years with a Presidential Preference Primary)
- Feb. 10 Supervisor of Elections shall provide the Municipal Clerk with certified results of the General Election. (Section 102.151, F.S.)
- Feb. 11 Last date for Municipal Clerk to submit list of persons elected to the Division of Elections (Section 102.151, F.S. - Immediately after canvass)
- Feb. 20 Termination Report (TR) covering the period from 1/1/11-4/20/11 due for candidates unopposed after qualifying (Section 106.07(c), F.S. – Within 90 days dispose of surplus funds and file a report reflecting disposition of all funds)
- April 30 Termination Report (TR) covering the period from 1/27/12-4/30/12 due for candidates elected or defeated in the General Election. (Section 106.07(c), F.S. - Within 90 days dispose of surplus funds and file a report reflecting disposition of all funds)

THIS SUMMARY IS PRODUCED FOR YOUR CONVENIENCE AND IS BASED ON SIMILAR INFORMATION PROVIDED IN A PUBLICATION BY THE DIVISION OF ELECTIONS. IT MAY NOT INCLUDE EVERY ITEM NECESSARY TO CONDUCT YOUR ELECTION. PLEASE REFER TO THE ACTUAL FLORIDA STATUTES FOR FURTHER GUIDANCE.