



AGENDA ITEM MEMORADUM

Development Services

Linda Connors *LC*

Department

Town Planner *BS*

COMMISSION MEETING DATE (*) - 7:00 PM	Deadline to Town Clerk
<input checked="" type="checkbox"/> June 26, 2012	June 15

**Subject to Change*

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

FY2012 DESIGNATED HIGH PRIORITY ITEM - PRIORITY TOPIC

SUBJECT TITLE: Ordinance 2012-11, Requiring Window Screening for Vacant Commercial Space.

EXPLANATION: At the May 8th Commission meeting, staff presented draft standards for the screening of windows of buildings with vacant commercial interior space. At that time, the Commission directed the proposed standards be scheduled for Planning and Zoning Board consideration.

The Planning and Zoning Board reviewed the proposed amendments at their May 16th meeting. The Board voted 5-0 in support of the draft language with the following comments:

1. Revise Section 30-313 33 (a) (3) a. to 21 consecutive days (from 14 days)
The Board believed that the time frame to consider a property vacant should be increased from 14 to 21 days to accommodate the Town's small businesses that close to accommodate the owner's vacation.
2. Revise Section 30-313 33 (b) (1) (b) to add screening material shall have a seamless appearance.
The Board believed that additional language was necessary to clarify the Town's intent.
3. Revise Section 30-313 33 (c) Timing -- installation required within seven (7) calendar days of vacancy (instead of five days.)
The Board believed that the time frame to require installation of the screening should be increased by two days.

There was significant discussion about the development of pre-printed materials. Board members strongly suggested that the Town provide these materials, or at a minimum the Town should have a library of digital images that property owners could utilize to reproduce on their screening materials. Staff is currently reviewing the costs associated with these two alternatives and will have cost estimates available at second reading of the ordinance.



Staff supports the Planning and Zoning Board's recommendations and we have incorporated them into Ordinance 2012-11 (**Exhibit 1**) as double underlined text. Upon the advice of our Town Attorney, additional amendments to improve the organization of the document were also made after the Planning and Zoning Board. These items are also identified as double underlined in the Ordinance. The staff report to the Planning and Zoning Board and meeting minutes (**Exhibits 2 and 3**) are included for your information.

RECOMMENDATION: We recommend approval of Ordinance 2012-11.

EXHIBITS: Exhibit 1 – Ordinance 2012-11
Exhibit 2 – Planning and Zoning Board Meeting Minutes
Exhibit 3 – Planning and Zoning Board Staff Report

Ordinance Reviewed by Town Attorney

Yes No

Town Manager Initials CA

ORDINANCE 2012-11

AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING ARTICLE V “ZONING” OF CHAPTER 30, UNIFIED LAND DEVELOPMENT REGULATIONS, OF THE CODE OF ORDINANCES, BY AMENDING SECTION 30-313, GENERAL PROVISIONS, TO PROVIDE REQUIREMENTS FOR WINDOW SCREENING FOR VACANT COMMERCIAL USES, INCLUDING HOTELS AND MOTELS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE

WHEREAS, the Town Commission recognizes that changes to the adopted Code of Ordinances are periodically necessary in order to ensure that the Town’s land development regulations are current and consistent with the Town’s planning and regulatory needs; and

WHEREAS, the Town Commission desires to provide requirements and standards for screening vacant commercial uses, including hotels and motels to address the vision and achieve consistency between the Town’s Master Plan and Land Development Regulations; and

WHEREAS, Section 30-531 of the Code requires issuance of a Notice of Intent prior to the processing of any amendment to the land development regulations in Chapter 30 of the Code, and such notice was given of this amendment on May 8, 2012; and

WHEREAS, the Planning and Zoning Board, sitting as the Local Planning Agency, has reviewed this revisions proposed in this Ordinance at a duly noticed public hearing on May 16, 2012, and provided a recommendation of approval with modifications of the proposed revisions; and

WHEREAS, the Town Commission conducted a first and second reading of this Ordinance at duly noticed public hearings, as required by law, and after having received input from and participation by interested members of the public and staff, the Town Commission has determined

30 that this Ordinance is consistent with the Town’s Comprehensive Plan and is in the best interest of
31 the Town, its residents, and its visitors.

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

34 **SECTION 1. Recitals.** The preceding “Whereas” clauses are ratified and incorporated
35 as the legislative intent of this Ordinance.

36 **SECTION 2. Amendment.** Article V, Zoning, of Chapter 30, Unified Land
37 Development Regulations, of the Code of Ordinances is hereby amended as follows¹:

38 **Sec. 30-313. - General provisions.**

39
40 These general provisions shall govern development within the corporate limits of the Town, as
41 follows:

42 * * *

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44
45 **(33) Window Screening for Vacant Storefronts**

46 (a) Definitions. The following words, terms and phrases, when used in this Section, shall
47 have the following meanings ascribed to them, except where the context clearly
48 indicates a different meaning:

49 (1) Door means a swinging or sliding panel that closes an opening in a wall and
50 provides passage through it.

51 (2) Transparent means easily seen through, so that bodies, objects and materials
52 situated beyond or behind the glass can be clearly seen.

53 (3) Vacant means buildings or individual storefronts that are:

54 a. not open to the public, or to clientele, for a period of more than
55 fourteen (14) ~~twenty-one (21)~~ consecutive days due to lack of business
56 operation, repair or renovation; and

57 b. not being used for the display or merchandising of any product

¹ Additions to existing text are shown in underline. Deletions are shown in strikethrough. Additions subsequent to the Planning and Zoning Board meeting are shown in double underline and deletions subsequent to the Planning and Zoning Board meeting are shown in double strikethrough.

58 (4) Window means an opening in an exterior wall to admit light and air, typically
59 with glazing in a frame that may or may not be operable.

60
61 (b) Required Screening Specifications. All transparent windows and doors in
62 commercial uses, including hotels and motels, that are vacant, which are visible from
63 the right-of-way, regardless of floor elevation, are required to be screened to prevent
64 the interior of the building from being viewed from the public right-of-way.
65 Decorative window treatments that were in place during the business occupancy, such
66 as shutters (excluding hurricane shutters), shades, curtains, Venetian or vertical blinds
67 may be used if they prevent viewing of the interior of the building from the public
68 right-of-way. Decorative window treatments must have a clean and neat appearance,
69 and be kept in good repair.

70 (1) Screening material requirements shall:

- 71 a. If paper is used, paper shall be no less than 60 lb. weight;
72 b. Each piece of screening material shall have a width no less than 36"
73 and a length sufficient to completely screen the opening from its
74 lowest point to a level no less than the height of the window or door
75 opening or a level six (6) feet above the finished floor and have a
76 seamless appearance;
77 c. Screening material shall be maintained in a clean and neat appearance;
78 and
79 d. Screen material shall be affixed to the interior side of the window or
80 door glass. If utilizing tape, tape must have a continuous edging.

81 (2) Screening material shall include artwork/photography but not text, except as
82 allowed on specifically identified sign types, including, but not limited to:

- 83 a. Historical pictures of the Town of Lauderdale-By-The-Sea;
84 b. Historical post cards of the Town of Lauderdale-By-The-Sea;
85 c. Art work of a professional nature;
86 d. Designs or drawings provided by the Town of Town projects;
87 e. ~~Announcing or contractor signs as described in Section 30-~~
88 ~~508(3)(h)(1) and 30-508-(3)(h)(2) of the code; and~~

89 ~~f. Seasonal window treatments as described in and subject to the~~
90 ~~regulations of Section 30-502(16).~~

91 Pictures and artwork on, or incorporated into, the screening materials must be
92 a minimum of 16" x 20".

93 (3) As an alternative, and if available, windows and doors may be covered by pre-
94 printed materials provided by the Town.

95 (c) Timing. All window screening is required to be installed within seven (7) ~~five (5)~~
96 business days of vacancy. A time extension of up to seven (7) ~~five (5)~~ business days
97 may be given by the Development Services Director if the property owner submits a
98 written request for an extension to the Development Services Department.

99 (d) Nothing in this Section shall prohibit the placement of otherwise legal signs in
100 windows, including, but not limited to:

101 (1) Announcing or contractor signs as described in Section 30-508(3)(h)(1) and
102 30-508 (3)(h)(3) of the code; and

103 (2) Seasonal window treatments as described in and subject to the regulations of
104 Section 30-502(16).

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108 **SECTION 3. Severability.** If any section, sentence, clause or phrase of this Ordinance is
109 held to be invalid or unconditional by any court of competent jurisdiction, then said holding shall in
110 no way affect the validity of the remaining portions of this Ordinance.

111 **SECTION 4. Conflicts.** All ordinances or parts of Ordinances and all Resolutions or
112 parts of Resolutions in conflict with the provisions of this Ordinance are hereby repealed.

113 **SECTION 5. Codification.** This Ordinance shall be codified.

114 **SECTION 6. Effective Date.** This Ordinance shall become effective immediately upon
115 adoption on second reading.

116 **SECTION 7. Adoption.** Passed on the first reading, this ___ day of _____, 2012.

117 Passed and adopted on the second reading, this ___ day of _____, 2012.

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Mayor Roseann Minnet

	First Reading	Second Reading
	_____	_____
	_____	_____
	_____	_____

Mayor Minnet
Vice-Mayor Sasser
Commissioner Brown
Commissioner Dodd
Commissioner Vincent

Attest:

Town Clerk, June White, CMC

(CORPORATE SEAL)

Approved as to form:

Susan L. Trevarthen, Town Attorney

TOWN OF LAUDERDALE-BY-THE-SEA
PLANNING AND ZONING
REGULAR MEETING MINUTES
Town Commission Meeting Room
Wednesday, May 16, 2012
6:30 P.M.

I. CALL TO ORDER

Chairperson Alfred Oldaker called the meeting to order at 6:30 p.m. Members present were Chairperson Alfred Oldaker, Vice Chairperson David Chanon, William Brady, Avi Braverman and first alternate Eric Yankwitt. Also present were Town Planner Linda Connors and Assistant Town Attorney Kathryn Mehaffey. Deputy Town Clerk Glenn McCormick was present to record the minutes of the meeting. Board member W. Patrick Murphy was absent.

II. PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

III. APPROVAL OF MINUTES - Planning and Zoning Meeting of March 21, 2012

There were no other additions, deletions or changes to the above minutes.

Vice Chairperson Chanon made a motion to approve the minutes of March 21, 2012. The motion was seconded by Mr. Yankwitt. The motion carried 5-0.

IV. PUBLIC COMMENTS

There were no public comments.

V. TOWN PLANNER REPORT

Town Planner Linda Connors reviewed her report as provided in the backup.

VI. NEW BUSINESS

Item #1: Proposed Amendments to Chapter 30 to Require Window Screening or Vacant Storefronts, Including Hotels and Motels.

Town Planner Connors discussed the subject item as detailed in the backup.

EXHIBIT 2

Avi Braverman asked what would happen if someone rented a space, was in the process of renovating it and wished to put some promotional display in the window.

Town Planner Connors replied this would be covered under the Town code for announcing contractor signs.

Mr. Braverman also inquired about the preprinted materials. Ms. Connors mentioned that might be available from the Town in 36-inch panels.

Town Planner Connors indicated the Town was currently looking into possibly providing the preprinted material as an option.

Mr. Braverman thought this would be a good opportunity to have panels displaying historic photographs available, and if they were available from the Town at no added cost, then the person renting the space or property owner had little to complain about.

Vice Chairperson Chanon wondered if a "for lease" sign was part of the acceptable storefront signage.

Town Planner Connors replied it was possible to display a "for lease" sign, as defined in the current sign code.

Vice Chairperson Chanon expressed concern as to requiring windows to be screened regardless of elevation, wondering if the requirement would apply to windows above a certain elevation.

Town Planner Connors explained the definition of a transparent window that needed to be screened was one through which one could see the interior of the building from the public right of way. She suggested it was possible to add the word "adjacent" before public right of way to indicate it meant at street level.

Chairperson Oldaker asked if the amendment would apply to a hotel/motel with a vacant room.

Town Planner Connors indicated if the hotel/motel was still open for business, then the vacant window was acceptable. But if the office was closed and no business was being conducted, then it would trigger the code, depending on how long it was closed.

Chairperson Oldaker queried as to definitions A, item 3, vacant, there was some previous discussion on mom and pop stores closing for the holidays, as they would technically not be open for business. He thought the consecutive 14-day period might adversely affect those business owners that closed shop once a year and went away for a set period of time; he suggested expanding the 14 days to 21 days.

Town Planner Connors clarified the change would be from 14 to 21 consecutive days, after which the business owner would have five business days to put up the window screening.

Chairperson Oldaker next referred to item c at the bottom, the last paragraph, where it said five business days, which he thought should be extended to seven calendar days. He asked where did turning the lights off at night fall into the code.

EXHIBIT 2

Town Planner Connors replied there was no regulation for turning lights off at night.

Chairperson Oldaker questioned how the violations would be detected, if code enforcement would be on the lookout for vacated property.

Town Planner Connors responded once the amendments were adopted, if code enforcement observed a storefront was vacant, they could begin enforcing the code, counting the days from that time onwards. Once they reach the allowable days for the vacancy, they would enforce the code, and if someone did not comply, they would be issued a notice of violation and asked to appear before the special magistrate. Generally, the fines could run from \$0 to \$250 a day. Thus, the clock would not start until the Town classified the space as vacant; that is, by the code enforcement going out to the site, getting notification that someone had vacated the property or by a community member calling the code office informing them of the vacancy. The enforcement process would not begin until the vacancy was documented by Town staff.

Mr. Yankwitt expressed concern as to the pictures and artwork, but he had no wish for any violations to be issued in this regard, so he wondered if there were previously approved pictures and artwork.

Town Planner Connors answered no.

Mr. Yankwitt pointed out where one person's interpretation of art differed from another, issues might arise.

Town Planner Connors concurred.

Vice Chairperson Chanon requested, assuming the Board passed the proposed amendments, that at a minimum electronic files of the acceptable images should be available online, as this would help maintain consistency.

Mr. Braverman liked the idea of the Town having preprinted pictures on panels that filled the code requirements.

Chairperson Oldaker suggested language that said the paper screening the window should be one continuous piece covering the window opening 36 inches wide and a length to cover the opening.

Vice Chairperson Chanon thought having a window covering, such as brown paper going all the way up the length of a window that had a high elevation would be unsightly.

Chairperson Oldaker pointed out covering up windows while doing renovations was a common practice of businesses.

Mr. Braverman felt it was unnecessary to enforce the height requirement for the window covering beyond the first story, due to the general height of buildings in the Town. He strongly recommended the Town provide the preprinted material for the vacant windows, as it would create uniformity as well as highlight Lauderdale-By-The-Sea and be at no cost to the property/business owner.

EXHIBIT 2

Chairperson Oldaker agreed the Town should supply the images on a disc, so a business or property owner could take it to a print shop and print the panels. Having the Town maintain picture panels placed an added burden on Town staff.

A male speaker witnessed other municipalities using preprinted material and business owners came and picked it up and posted it in the storefront windows. There was not much variety, no more than five or six different images. The concept of supplying the images on a disk was a good one, as long as it did not add too much cost to the business owner, as those costs would increase with the number of windows.

Assistant Town Attorney Mehaffey noted it was necessary to consider the situation in terms of limit or prohibit and judge what constituted artwork. The concept of providing the artwork free of charge was designed to make it easier for people to choose from acceptable artwork. This could not be done to the exclusion of everything else, so businesses could not be forced to use the free artwork, but it's being free would encourage its use.

Town Planner Connors added the language said the preprinted material might be provided by the Town, but there was no mention of them being free. Thus, the Town could seek to recoup the costs for providing the material, and there had been no discussion either way.

Mr. Braverman made a motion to limit screening to the first floor. The motion failed for lack of a second.

Chairperson Oldaker preferred to leave the enforcement of window covering beyond the first floor up to Town staff's discretion.

Mr. Yankwitt made a motion that was seconded by Mr. Brady to approve Item #1 to include the following amendments:

- a) Amending Section 30-313 (a) (3) a. to 21 consecutive days from 14 days
- b) (b) (1) (b) to add screening material shall be one piece
- c) (b) (1) (c) Timing – installation required within seven (7) calendar days of vacancy.

The motion carried 5-0.

Item #2: Proposed Amendments to Chapter 30 to Revise the Town Minimum Parking Requirements

Town Planner Connors went over the proposed amendments as detailed in the backup, focusing first on the restaurant/bar establishments.

Chairperson Oldaker commented as to not including the bar area in the calculations, noting at several of the Town's restaurant establishments with a bar a number of customers could be found standing or sitting in the bar area.

Town Planner Connors stated the bar area would be included at one per 50 square feet; more people sat at a bar than at a table.

Chairperson Oldaker observed the linear calculation did not take into consideration the depth of the bar.

EXHIBIT 2

Vice Chairperson Chanon stated he was not in favor of adding a component that measured the bar area, as the aim was to make the Town more pedestrian friendly, and at the Board's last meeting the discussion was to find ways to reduce the number of required parking spaces for some of the hotel establishments. Many people walked or rode bikes, and he felt it was unnecessary to impose an additional burden on the local restaurants and businesses for this reason.

Town Planner Connors moved to the portion of the presentation pertaining to gasoline service stations.

Mr. Yankwitt asked if he could vote on the subject item, as the mechanic that serviced the Town's gas station was a client of his; he was not an attorney client but an accounting client.

Assistant Town Attorney Mehaffey requested a five minute recess.

Recess/Reconvene (7:27 p.m./7:30 p.m.)

Assistant Town Attorney Mehaffey responded there was no conflict of interest pertaining to Mr. Yankwitt's question, as the item was not dealing with an application specific to the site where Mr. Yankwitt's client worked. It was a general legislative application that was applicable to all properties throughout the Town.

Chairperson Oldaker asked if there was a conflict of interest, could the matter be broken into the three components.

Assistant Town Attorney Mehaffey responded the Board could address future issues in the three components if it so chose.

Chairperson Oldaker thought verbiage should be added to the ordinance so it was more thorough.

Assistant Town Attorney Mehaffey clarified the motion was to approve the proposed changes including the revised staff recommendations as presented.

Mr. Yankwitt inquired how the bar area and the vestibule right in front of the restrooms was being handled.

Town Planner Connors replied if the area was situated in the room, it was included in the customer service calculation, as would any wall, hallway or anywhere patrons congregated.

Chairperson Oldaker emphasized the inclusion of the bar square footage pertained only to the area in front of the bar not behind the bar.

Chairperson Oldaker made a motion to approve Item #2 with the additional language as presented. The motion was seconded by Vice Chairperson Chanon. The motion carried 5-0.

VII. OLD BUSINESS

Town Planner Connors informed the Board staff received no applications from the public for the June 27, 2012, meeting.

Chairperson Oldaker wished to postpone the June meeting to July 18, 2012.

A male speaker asked about the deadline to submit applications for the June meeting.

Town Planner Connors replied the deadline was the first week of the prior month. Thus, there were no applications from the public, though the Board had issues to discuss that were not of an urgent nature. If no application was received from the public, the Town was not required to issue specific advertising, she simply posted a public notice of the upcoming meeting date, and this allowed her time to prepare her reports. Her reports were normally submitted to the Board the Friday prior to the date of the next meeting, and she needed a week prior to that date to have all the documents ready for the Board's packet. Under proposals for discussion, the pier parking standards would have been brought forward for Board discussion, but the pier owner was on vacation, so Town staff thought it best to wait until he returned. She said, currently, the Town had no pier parking standards in its code, and Town staff thought there should be such standards and were in the process of drafting standards for the Board to vote on.

VIII. BOARD MEMBER COMMENTS

None

IX. ADJOURNMENT

There being no further business to discuss, the meeting adjourned at 7:38 p.m.

Chairman Alfred Oldaker

Date Accepted: _____

ATTEST:

Glenn McCormick, Secretary

Exhibit 3



Town of Lauderdale-By-The-Sea
Development Services
4501 Ocean Drive
Lauderdale-by-the-Sea, FL 33308

To: Planning and Zoning Board
Thru: Bud Bentley, Assistant Town Manager
From: Linda Connors, Town Planner
Date: May 9, 2012
Meeting Date: May 16, 2012

Town Planner Report: Proposed amendments to Chapter 30 to require window screening for vacant storefronts.

The purpose of this agenda item is to review the proposed amendments (**Exhibits I**) to Chapter 30 of the Town Code to require window screening for vacant storefronts.

Background

When the Commission approved amendments to the Town's sign code on February 28, 2012, Commissioner Vincent suggested the Town develop standards requiring screening of windows that show vacant interior space. The proposed language for these standards is attached as Exhibit 1.

Justification

Our review of the land development regulation codes resulted in the recommendation that the Town should amend the Code and include standards related to window screening as they are consistent with the Goals, Objectives and Policies (GOP's) and overall guiding principles as expressed in the Town's adopted Comprehensive Plan. Those GOPs supporting these amendments are as follows:

Economic / Redevelopment

Goal 10.0

To promote the continued economic vitality of the Town's seasonal residential and business areas in a manner sensitive to the overall best interests of existing Town residents.

Objective 10.2

Cultivate an overall local resort image by undertaking/promoting related public and private property improvements.

Objective 10.3.

To broaden the tourist market base by encouraging innovation and modernization in the type, character and appearance of local tourist residential and business uses.

Objective 10.6

Provide for the perpetuation of the overall low-rise, pedestrian oriented atmosphere of the southern portion of the Town consistent with the Charter.

Policy 10.6.1 Maintain Plan land use designations and current building height limitation consistent with the Charter.

Policy 10.6.2 With regard to the above, consider amendments to the Plan with a clear emphasis towards maintaining an open, pedestrian friendly building character.

Proposed Amendments

One current planning principal is to ensure that there is visual interest in windows so as not to create a void along the street. Interesting windows will encourage pedestrian activity within our commercial areas. This principal was emphasized by David Sucher, the author of *City Comforts*, when he spoke during the Town's Urban Design Lecture Series last year and his input was well-received by our citizenry.

We are therefore proposing language that requires window screening that includes artwork or photography for vacant storefronts, including hotels and motels, and we list examples of what might be appropriate. We also provide that they can post pre-printed materials that are provided by the Town, as other cities have found that to be a way to provide a measure of control over what is posted and to present a certain look or theme in the coverings. We do not anticipate that the cost of the Town providing such coverings would be material.

Procedure

We presented the proposed language to the Town Commission in report format at their May 8th meeting. The Commission supported the language and asked us to move forward. We are prepared to bring the Ordinance adopting this language (including your suggested revisions) to the Commission at their June 12th meeting for first reading and set second reading for July 10th.

Exhibit: 1 – Draft of Screening Standards