



Item No. 12. b. i

AGENDA ITEM MEMORADUM

Town Manager

Connie Hoffmann

Department

Department Director

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

*Subject to Change

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

FY2012 DESIGNATED HIGH PRIORITY ITEM - PRIORITY TOPIC:

SUBJECT TITLE: Ordinance 2012-08 - Nuisance Abatement Ordinance

EXPLANATION: At the May 22, 2012 Commission meeting Ordinance 2012-08 was adopted on first reading.

EXHIBIT: 1) Ordinance 2012-08

Reviewed by Town Attorney
 Yes No

Town Manager Initials CH

ORDINANCE 2012-08

1 **AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-**
2 **THE-SEA, FLORIDA, CREATING ARTICLE IV, PUBLIC**
3 **NUISANCE, OF CHAPTER 14, OFFENSES, OF THE CODE**
4 **OF ORDINANCES, TO REGULATE PUBLIC NUISANCES;**
5 **PROVIDING FOR SEVERABILITY, CONFLICTS,**
6 **CODIFICATION, AND AN EFFECTIVE DATE**

7
8 **WHEREAS**, the Town Commission recognizes that changes to the adopted Code of
9 Ordinances are periodically necessary in order to ensure that the Town's Code is current and
10 consistent with the Town's regulatory needs; and

11 **WHEREAS**, Section 823.05, Florida Statutes, identifies places and groups engaged in
12 criminal gang related activities as public nuisances; and

13 **WHEREAS**, Section 893.138, Florida Statutes, identifies and defines drug-related,
14 prostitution-related, stolen-property-related and criminal gang related activities which may be
15 defined as public nuisances; and

16 **WHEREAS**, the Town Commission finds that any places or premises which are used as
17 the site of the unlawful sale, delivery, manufacture or cultivation of controlled substances,
18 prostitution, criminal gang activity, illegal sale or consumption of alcoholic beverages, lewd or
19 lascivious behavior, dealing with stolen property, and certain crimes on the premises of a pain
20 clinic, may be a public nuisance that adversely affects the public health, safety, morals, and
21 welfare and

22 **WHEREAS**, the Town Commission finds that actively abating the public nuisance which
23 results from these criminal activities through the available code enforcement procedures is

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24 necessary to maintain and improve the quality of life of the residents of the Town and will
25 safeguard the public health, safety, and welfare; and

26 **WHEREAS**, the Town Commission conducted a first and second reading of this Ordinance
27 at duly noticed public hearings, as required by law, and after having received input from and
28 participation by interested members of the public and staff, the Town Commission has determined
29 that this Ordinance is in the best interest of the Town, its residents, and its visitors.

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

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

34 **SECTION 2. Amendment.** Article IV. Public Nuisance, of Chapter 14, Offenses, of the
35 Code of Ordinances, is hereby created to read as follows:

36 **ARTICLE IV. - PUBLIC NUISANCE**

37 **Sec. 14.90 – Public Nuisance.**

38 (a) *Definition.* For purposes of this Section, Public Nuisance shall mean those actions or
39 failures to act defined as Public Nuisances in Section 823.05, F.S. or Section 893.138, F.S.,
40 and shall also include illegal sale or consumption of alcoholic beverages on two or more
41 instances at a premises or business establishment within a twelve-month period.

42 (b) *Violation Established.* It shall be unlawful and shall constitute a violation of this section
43 for any person who engages in any profession or occupation within the Town, or who

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owns, operates or manages any premises or business establishment within the Town, to engage in such profession or occupation or operate or manage said premises or business establishment, in a manner which directly facilitates the efforts of that person or any other person to engage in conduct which constitutes the establishment or maintenance of a Public Nuisance within the Town.

(c) *Enforcement.*

(1) The Town may prosecute violations by issuance of notices to appear before the code enforcement special master for violation of a Town ordinance, in which case the penalty for a violation shall be as follows:

- i. First offense250.00
- ii. Second offense\$500.00
- iii. Violation Irreparable in nature up to \$5,000.00

Each day on which a violation exists shall constitute a separate violation for the purpose of determining the fine or penalty imposed.

(2) The Town Attorney, if directed by the Town Commission, may bring suit on behalf of the Town, against the person, persons or business causing or maintaining the violation, or against the owner/agent of the business, building or property on which the violation exists. Relief may be granted according to the terms and conditions of Chapter 60, F.S. entitled "Abatement of Nuisances."

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

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

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

69 **SECTION 6. Effective Date.** This Ordinance shall become effective immediately upon
70 second reading.

71 Passed on the first reading, this __ day of _____, 2012.

72 Passed and adopted on the second reading, this __ day of _____, 2012.

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Mayor Roseann Minnet

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First Reading

Second Reading

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Mayor Minnet

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Vice-Mayor Sasser

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Commissioner Brown

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Commissioner Dodd

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Commissioner Vincent

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85 Attest:

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Town Clerk June White, CMC

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90 Approved as to form:

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Susan L. Trevarthen, Town Attorney

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