

29 accommodation procedure for claimants, and with the requirement that claimants exhaust
30 administrative remedies prior to filing suit; and

31 **WHEREAS**, the proposed zoning relief procedure will provide the Town with the
32 opportunity to resolve claims related to possible unintended violations of federal and state laws,
33 to avoid costly litigation; and

34 **WHEREAS**, the Town’s Planning and Zoning Board held a public hearing on September
35 15, 2010 to review this Ordinance, and made a recommendation to the Town Commission to
36 adopt it; and

37 **WHEREAS**, the Town Commission has held a properly advertised public hearing
38 pursuant to Chapter 166, Florida Statutes, and finds that the regulation is consistent with its
39 comprehensive plan; and

40 **WHEREAS**, the Town Commission of the Town of Lauderdale-By-The-Sea, Florida,
41 finds that it is in the best interest of the Town’s citizens and residents to approve the proposed
42 amendments to the Code of Ordinances.

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

45 **SECTION 1: Recitals.** The foregoing “WHEREAS” clauses are ratified and confirmed
46 as being true and correct, and are made a specific part of this Ordinance.

47 **SECTION 2: Amendment.** Chapter 30, entitled “Unified Land Development
48 Regulations” of the Code of Ordinances of the Town of Lauderdale-By-The-Sea, Florida, is
49 hereby amended to create Section 30-22 “Zoning Relief Procedures,” as follows:

50 **Sec. 30-22. Zoning relief procedures.**

51 **(a) Purpose and applicability.** In order to address possible unintended violations
52 **of federal and state laws, subsequent to implementation of this Code or its related**
53 **of federal and state laws, subsequent to implementation of this Code or its related**
54

55 rules, policies, and procedures in advance of costly litigation, zoning relief may
56 be granted pursuant to this section.

57
58 (b) Application. A person or entity shall request relief under this section prior to
59 filing a lawsuit, by completing a Zoning Relief Request form, which is available
60 from the Town's Department of Development Services. The form shall contain
61 such questions and requests for information as are necessary for evaluating the
62 relief requested.

63
64 (c) Notice. The Town shall display a notice on the Town's public notice bulletin
65 board and shall maintain copies available for review in the Department of
66 Development Services and the Town Clerk's Office. The notice shall advise the
67 public that a request for zoning relief under a federal or state law is pending. The
68 location, date and time of the applicable public hearing shall be included in the
69 notice. Mailed notice shall also be provided to property owners within 300 feet, if
70 the request for relief is site specific, in accordance with the procedure provided in
71 Section 30-13(d)(2)(b).

72
73 (d) Application and hearing. The Town Commission shall have the authority to
74 consider and act on requests for zoning relief submitted to the Department of
75 Development Services. A public hearing shall be held within seventy five (75)
76 days of receipt by the Town of the request for relief at a Town Commission
77 meeting. A written determination shall be issued by resolution no later than seven
78 (7) days after the conclusion of the public hearing. The determination may: (i)
79 grant the relief requested, (ii) grant a portion of the request and deny a portion of
80 the request, or impose conditions upon the grant of the request, or (iii) deny the
81 request. Any determination denying the requested relief shall be final, in writing,
82 and shall state the reasons the relief was denied. The final written determination
83 shall be sent to the requesting party by certified mail, return receipt requested.

84
85 (e) Additional information. If necessary, prior to the public hearing, the Town
86 may request additional information from the requesting party, specifying in
87 sufficient detail what information is required. In the event a request for additional
88 information is made to the requesting party by the Town, the seventy-five (75)
89 day time period to schedule a public hearing shall be extended to ninety (90) days
90 to include the time necessary to seek and review the additional information. The
91 requesting party shall have fifteen (15) days after the date the information is
92 requested to provide the needed information. If the requesting party fails to timely
93 respond with the requested additional information, the Town shall notify the
94 requesting party and proceed with scheduling a public hearing and issuing its final
95 written determination regarding the relief requested as required in subsection (d).

96
97 (f) Criteria. In determining whether the zoning relief request shall be granted or
98 denied, the applicant shall be required to establish:

- 99
100 (1) The applicant is a potential claimant under a federal or state law; and

101
102 (2) The applicant believes in good faith that the Town through
103 implementation of its Code has intentionally or unintentionally violated
104 federal or state law for the reasons stated in the zoning relief request; and
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106 (3) The applicant satisfies the standard set forth in the applicable federal or
107 state statute(s), or legal precedent interpreting the applicable statute(s).
108

109 (g) Exhaustion required. Completion of the zoning relief procedures shall be a
110 supplement to and not a substitute for any other pre-litigation dispute resolution
111 processes available by law to the Town or the applicant. Completion of the
112 zoning relief procedures shall constitute the exhaustion of all administrative
113 remedies available from the Town.
114

115 (h) Effect while pending. While an application for zoning relief or appeal of a
116 determination of same is pending before the Town, the Town will not enforce the
117 Code, rules, policies, and procedures against the property owner, except the Town
118 may seek injunctive relief if an imminent threat to the health, safety and welfare
119 of the public is present.
120

121 **SECTION 3. Codification.** This Ordinance shall be codified in accordance with the
122 foregoing. It is the intention of the Town Commission that the provisions of this Ordinance shall
123 become and be made a part of the Town of Lauderdale-by-the-Sea Code of Ordinances; and that the
124 sections of this Ordinance may be renumbered or re-lettered and the word “ordinance” may be
125 changed to “section,” “article” or such other appropriate word or phrase in order to accomplish such
126 intentions.

127 **SECTION 4. Severability.** If any section, sentence, clause, or phrase of this Ordinance is
128 held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall
129 in no way affect the validity of the remaining portions of this Ordinance.

130 **SECTION 5. Conflicting Ordinances.** All prior ordinances or resolutions or parts thereof
131 in conflict herewith are hereby repealed to the extent of such conflict.

132 **SECTION 6. Effective Date.** This Ordinance shall become effective immediately upon
133 passage on second reading.

134 Passed on the first reading, this 12th day of October, 2010.

135 Passed on the second reading, this ____ day of _____, 2010.

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137

138

Mayor Roseann Minnet

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140

First Reading

Second Reading

141 Mayor Minnet

142 Vice-Mayor Dodd

143 Commissioner Clotey

144 Commissioner Sasser

145 Commissioner Vincent

146

147 Attest:

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149

150

Town Clerk, June White CMC

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153 (CORPORATE SEAL)

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155 Approved as to form:

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157

158

Susan L. Trevarthen, Town Attorney

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