



Item No. 10.1.d.

AGENDA ITEM REQUEST FORM

Development Services

Department Submitting Request


Dept Head's Signature 

<u>REG COMMISSION</u> <u>Meeting Dates 7:00PM</u>	<u>DEADLINE TO</u> <u>Town Clerk's Office</u>	<u>ROUNDTABLE</u> <u>Meeting Dates 7:00PM</u>	<u>DEADLINE TO</u> <u>Town Clerk's Office</u>
<input checked="" type="checkbox"/> Oct 12, 2010	Oct 1 (5:00 pm)	<input type="checkbox"/> Oct 26, 2010	Oct 15 (5:00 pm)
<input type="checkbox"/> Nov 9, 2010*	Nov 12 (5:00 pm)	<input type="checkbox"/> Nov 23, 2010*	Nov 12 (5:00 pm)
<input type="checkbox"/> Dec 14, 2010	Dec 3 (5:00 pm)	<input type="checkbox"/> Dec 28, 2010*	Dec 17 (5:00 pm)
<input type="checkbox"/> Jan 11, 2011	Dec 31 (5:00 pm)	<input type="checkbox"/> Jan 25, 2011	Jan 14 (5:00 pm)
<input type="checkbox"/> Feb 8, 2011	Jan 28 (5:00 pm)	<input type="checkbox"/> Feb 22, 2011	Feb 11 (5:00 pm)
<input type="checkbox"/> Mar 8, 2011	Feb 25 (5:00 pm)	<input type="checkbox"/> Mar 22, 2011	Mar 11 (5:00 pm)

*Subject to Change

- | | | | |
|---------------------------------------|---|---------------------------------------|---|
| <input type="checkbox"/> Presentation | <input type="checkbox"/> Reports | <input type="checkbox"/> Consent | <input checked="" type="checkbox"/> Ordinance |
| <input type="checkbox"/> Resolution | <input type="checkbox"/> Quasi Judicial | <input type="checkbox"/> Old Business | <input type="checkbox"/> New Business |

SUBJECT TITLE: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING SECTION 30-313(31) "ACCESSORY BUILDINGS AND STRUCTURES," OF THE CODE OF ORDINANCES TO AMEND REQUIREMENTS FOR SHEDS, STORAGE BUILDINGS AND OTHER ACCESSORY BUILDINGS AND STRUCTURES; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE

EXPLANATION: At the June 9, 2010 Commission Roundtable meeting, direction was given to staff to move forward with drafting an ordinance amending the code to address sheds and storage containers that do not require a permit. The intent was to allow an easier process for approving these structures while maintaining compliance with the code. It would allow sheds not requiring a building permit to be placed with the condition that it would be removed in the event of a Hurricane Warning. At the Commission meeting of July 27, 2010, the Commission approved Resolution 2010-16 (Exhibit 2) adopting a Notice of Intent. The Notice authorized moving forward with amending Chapter 30 "Unified Land Development Regulations" of the Town Code of Ordinances to address these shed and storage container changes. A public hearing was held on the Notice of Intent at the Town Commission meeting on August 25, 2010.

The draft ordinance was reviewed by the Planning and Zoning Board on September 15, 2010, and the Board recommended approval with changes, which have been incorporated into the attached Ordinance (Exhibit 1). Staff concurs with the Board's recommended changes. Draft minutes of this item of the September 15, 2010 meeting is attached (Exhibit 3).

- BOARD RECOMMENDATION:** Approval with the following recommendations:
1. Reword lines 40-45 to clarify that accessory buildings can be at least 1 story in height for two-family and multiple-family dwellings.
 2. Remove the rear and side set back requirement at line 88.
 3. Remove Hurricane Watch from line 95.

STAFF RECOMMENDATION: Approval with Board recommendations, which have been incorporated into this Ordinance.

9/01/2010



AGENDA ITEM REQUEST FORM

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EXHIBITS: Exhibit 1 Ordinance.
Exhibit 2 Resolution & NOI (Notice of Intent).
Exhibit 3 Planning and Zoning meeting minutes.

FISCAL IMPACT AND APPROPRIATION OF FUNDS: N/A

Amount \$ _____ Acct # _____
 Transfer of funds required From Acct # _____

Town Attorney review required

Yes No

Town Manager Initials CA

Exhibit "1"

ORDINANCE 2010-18

AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING SECTION 30-313(31) "ACCESSORY BUILDINGS AND STRUCTURES," OF THE CODE OF ORDINANCES TO AMEND REQUIREMENTS FOR SHEDS, STORAGE BUILDINGS AND OTHER ACCESSORY BUILDINGS AND STRUCTURES; 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 revise the regulations applicable to accessory buildings and structures, and specify regulations of sheds and storage buildings; 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 July 27, 2010; and

WHEREAS, the Planning and Zoning Board, sitting as the Local Planning Agency, has reviewed this Ordinance at a duly noticed hearing on September 15, 2010, and recommended its adoption; 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 that this Ordinance is consistent with the Town's Comprehensive Plan and in the best interest of the Town, its residents, and its visitors.

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

- 64 ii. Height. Sheds and storage buildings may not exceed one story.
- 65 iii. Spacing from principal building. Sheds and storage buildings shall be
- 66 at least ten (10) feet from the principal building on the same plot or parcel.
- 67 iv. Floor area. Sheds and storage buildings shall not exceed one hundred
- 68 and forty-four (144) square feet in floor area.
- 69 v. Number. Only one (1) shed or storage building is permitted on any
- 70 parcel.
- 71 vi. Town Manager approval of deviations from standards on commercial
- 72 lots. A deviation from any of the above restrictions may be approved by
- 73 the Town Manager or designee for a shed or storage building on a
- 74 commercial lot. In order to approve any deviation, the Town Manager or
- 75 designee must find that the proposal:
- 76 A. Does not displace required parking spaces; and
- 77 B. Does not reduce pervious area; and
- 78 C. Will not obstruct back-out parking; and
- 79 D. Will be compatible with the principal structures on the site, with
- 80 adjacent properties, and with the neighborhood.
- 81 2. Not requiring a building permit. Sheds and storage buildings that are not
- 82 required to obtain a building permit and do not require the Department of
- 83 Community Affairs insignia noting compliance with the Florida Building Code
- 84 are permitted in all zoning districts, and shall meet the following standards:
- 85
- 86 i. Location. The shed or storage building shall not be placed within a
- 87 front yard or street side yard and must be placed behind the front façade of
- 88 the primary building. Side and rear setbacks are not required for the shed
- 89 or storage building.
- 90
- 91 ii. Portability. The shed or storage building must be easily dismantled or
- 92 removable.
- 93
- 94 iii. Requirement to remove in event of storm. Upon the issuance of a
- 95 "Hurricane Warning" by the Broward County Office of Emergency
- 96 Management, the property owner or person in control of the property,
- 97 shall forthwith remove and place any sheds or storage buildings indoors.
- 98
- 99 * * * * *

100

101 **SECTION 3. Severability.** If any section, sentence, clause or phrase of this Ordinance is

102 held to be invalid or unconditional by any court of competent jurisdiction, then said holding shall in

103 no way affect the validity of the remaining portions of this Ordinance.

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

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

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

109 **SECTION 7. Adoption.** Passed on the first reading, this ____ day of _____,
110 2010.

111 Passed and adopted on the second reading, this ____ day of _____, 2010.

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Mayor Roseann Minnet

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119 Mayor Minnet
120 Vice-Mayor Dodd
121 Commissioner Clotney
122 Commissioner Sasser
123 Commissioner Vincent

First Reading

Second Reading

_____	_____
_____	_____
_____	_____
_____	_____

125 Attest:

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Town Clerk, June White CMC

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131 (CORPORATE SEAL)

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133 Approved as to form:

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Susan L. Trevarthen, Town Attorney

Exhibit "2"

RESOLUTION NO. 2010-16

**A RESOLUTION OF THE TOWN COMMISSION OF THE
TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA
PROVIDING FOR ISSUANCE OF A NOTICE OF INTENT
CONCERNING PENDING AMENDMENTS TO CHAPTER
30 OF THE CODE OF ORDINANCES**

WHEREAS, Section 30-531 of the Code of Ordinances of the Town of Lauderdale-By-The-Sea (the “Code”) provides for a procedure for the public and the development community to be notified of changes to the Town’s land development regulations through the issuance of a notice of intent of pending land development regulations; and

WHEREAS, pursuant to Section 30-531(c) of the Code, the Town Commission shall authorize the investigation, study, development, drafting and consideration of all proposed amendments to the Town’s land development regulations; and

WHEREAS, proposed amendments to Section 30-313(31) of the land development regulations of Chapter 30 of the Code regarding sheds, storage buildings and accessory structures were considered by the Town Commission on June 9, 2010, requiring issuance of a notice of intent pursuant to Section 30-531(h) of the Code; and

WHEREAS, proposed amendments to list of permitted uses in the B-1 and B-1-A zoning districts of Chapter 30 of the Code were considered by the Town Commission on July 14, 2010, requiring issuance of a notice of intent pursuant to Section 30-531(h) of the Code; and

WHEREAS, Town staff and the Town Attorney have identified changes to the Town’s sign regulations in Chapter 30 of the Code which will enhance their legal defensibility, requiring issuance of a notice of intent pursuant to Section 30-531(h) of the Code; and

WHEREAS, Town staff and the Town Attorney have identified the need to create a zoning relief process in Chapter 30 of the Code to enhance the defensibility of this Chapter, requiring issuance of a notice of intent pursuant to Section 30-531(h) of the Code; and

54 ATTEST:

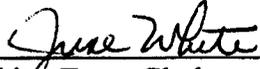
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June White, Town Clerk

60 Approved as to form:

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Susan L. Trevarthen, Town Attorney

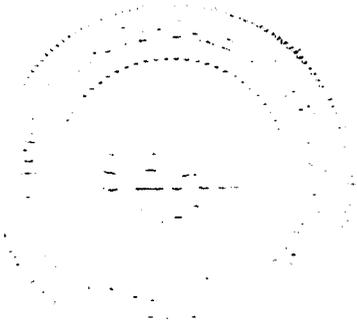


Exhibit "A"

Notice of Intent of Pending Land Development Regulations
Effective July 27, 2010

1. Statement of Purpose: In accordance with Section 30-531 of the Code of Ordinances, the Town hereby issues this **Notice of Intent** to notify the public of proposed changes to the land development regulations of Chapter 30 of the Code of Ordinances ("Code"). Upon Town Commission approval of the further processing of the proposed regulations, the amendments will be included in an ordinance and scheduled for hearing and adoption.

2. Description of Proposed Amendments to Chapter 30 "Unified Land Development Regulations" of the Code of Ordinances:

- a. Amendment to Section 30-313(31) in Article V. "Zoning," Division 2. "Districts," Subdivision L. "Supplemental Regulations," to modify the regulations for accessory buildings and structures, and specify regulations for sheds and storage buildings;
- b. Revising the list of permitted uses in the B-1 and B-1A zoning districts to include pet grooming and possibly other uses in Article V. "Zoning," Division 2. "Districts," Subdivision G. "B-1-A District Regulations" and Subdivision H. "B-1 District Regulations;"
- c. Adopting zoning relief procedures as a new Section 30-22 of Article I. "In General," to address possible unintended violations of federal and state laws in the implementation of this code or its related rules, policies, and procedures; and
- d. Revising the sign code, Article VIII. "Sign Regulations" to include additional severability provisions and possibly other amendments to enhance defensibility.

3. Projected Time Frame for Adoption of Regulations:

- a. Public Hearing and Town Commission Approval of Processing of Proposed Regulatory Changes: August 25, 2010
- b. Planning and Zoning Board Hearing on Ordinance: September 15, 2010
- c. First Reading of Ordinance By Town Commission: October 12, 2010
- d. Second Reading of Ordinance By Town Commission: November 9, 2010

4. Application of Pending Regulations:

The proposed regulations shall become effective and applicable to development within the Town following second reading and adoption by ordinance.

Exhibit "3"

Item #2. Amendments to Section 30-313 (31) Accessory Buildings and Structures.

Vice Chairman Brandt requested an explanation from staff as to the difference in Subsection A, specifically: accessory buildings and structures, that he might draw the difference between the items in Subsection A, B and Subsection 2.

Mr. Bowman explained accessory buildings were those that might be detached from primary buildings, such as garages, clubhouses for multifamily condominiums, etc., as detailed in Subsection A. B1 and B 2 pertained specifically to sheds based on the direction given to staff by the Commission to include in the ordinance language to address sheds and removable structures.

Vice Chairman Brandt questioned how it was possible to build a garage half the height of any principal buildings containing two-family or multifamily dwellings.

Mr. Bowman responded for a single family, the structure could not exceed one story, or with a two-family or multifamily that might be a multi story building, it could not exceed half the height of the height of the structure.

Vice Chairman Brandt asked if the minimum height should be one story, and for homes containing two or more stories, the height of the structure should not exceed one story.

Town Attorney Trevarthen felt the issue could be explored further for clarity, pointing out the wording of the ordinance needed to be cleaned up. She expressed appreciation for the Board's input and would include the recommended language accordingly.

Vice Chairman Brandt noted the subject matter pertained more to Subsection two, the not requiring a building permit for a shed. He asked if the shed could be abutting a house rather than being permanently attached.

Mr. Bowman affirmed it was allowed. The only restrictions were the structure had to be setback five feet from the property line; it had to be easy to dismantle and remove; and it should be removed in the event of a storm.

Vice Chairman Brandt commented the only change he would make was to remove "hurricane watch," as it seemed not to trigger an evacuation, rather it triggered the requirement to remove the hurricane warning.

Town Attorney Trevarthen wondered if the ordinance's language was mandated by an emergency management plan or County regulation, or was it something staff came up while working on the present language.

Mr. Bowman believed he took the language from the sidewalk café ordinance that required the removal of a sidewalk café in the event of a hurricane, etc.

Chairman Oldaker echoed concerns as to the five-foot setback; it should be moved to the property line. Referring to the sheds, he asked if a building permit was required. He thought the consensus of the Commission was to leave the matter with the Town Manager.

Vice Chairman Brandt said his concern with the paragraph was under the subsection for sheds requiring a building permit; this meant the process involved the Town Manager as well as the building official reviewing a set of plans.

Mr. Bowman replied if there were any deviations in the plans, they would have to be approved by the Town Manager or designee before they went to the building official.

Town Attorney Trevarthen affirmed the proposed ordinance would not be supplanting or overriding safety and other building code concerns. She noted Subsections A, B, C and D were there as a form of constraint on the discretion the Town Manager could exercise. Thus, the Manager would be prevented from approving a deviation that could result in one of the circumstances listed.

Vice Chairman Brandt understood the reasons for the inclusion of the subsections, but there was a cycle of political atmosphere in every town, and he wanted to make sure ordinances drafted by Town staff, recommended by the

Board and approved by the Commission survived any political atmosphere. The Board of Adjustments might be better suited to decide on such deviations, and he would be more comfortable having them named as the deciding entity than the Town Manager.

Town Attorney Trevarthen reminded the Board the subject amendment was just a proposal for how to approach the situation, and the Board was at liberty to recommend alternatives.

Mr. Bowman commented the cost to go through the Board of Adjustment was significant, and the avenue being proposed in the amendment was another alternative for the applicant. He went on to clarify the Board desired two changes to the subject amendment: strike "hurricane watch" and the five-foot setback requirement from the language.

Town Attorney Trevarthen stated on the second subsection, the substitute language would likely read: no setback shall apply.

Vice Chairperson Brandt mentioned the changes would include a better definition of the two-family structure.

Mr. Wick made a motion to approve the Ordinance amending Section 30-313 (31) as set forth in the backup, seconded by Vice Chairman Brandt.

In a roll call vote, the motion passed 4 – 0.

Mr. Wick stated he wished to amend the language of the above amendment, specifically: striking the words hurricane watch from line 95.

Mr. Wick made a motion to approve the amended language as stated above, seconded by Chairman Oldaker.

In a roll call vote, the motion passed 4 – 0.

Chairman Oldaker indicated the Board's recommendation to remove the words "five-foot setback" from line 88 where in the subject ordinance

Mr. Wick made a motion to approve the amended language as stated above, seconded by Vice Chairman Brandt.

In a roll call vote, the motion passed 4 – 0.

Chairman Oldaker stated the next motion to amend was for the rewording on line 42; specifically, to allow for structures with similar stories to build an accessory building to the height of at least one story.

Vice Chairman Brandt made a motion to approve the amended language as indicated above, seconded by Mr. Yankwitt.

In a roll call vote, the motion passed 3 – 1 (Mr. Wick voted No.)

Mr. Wick made a motion to approve the Ordinance amending Section 30-313 (31) as amended, seconded by Vice Chairperson Brandt.

In a roll call vote, the motion passed 4 – 0.
