



AGENDA ITEM REQUEST FORM

Development Services

Department Submitting Request

Jeff Bowman

Zoning/Code Supervisor TAB

REGULAR
COMMISSION MTG
Meeting Dates - 7:00 PM

DEADLINE TO
Town Clerk

ROUNDTABLE/
SPECIAL MEETING
Meeting Dates / TIME

DEADLINE TO
Town Clerk
7 Days Prior (noon)

Aug 23, 2011

Aug 12 (5:00 pm)

Insert Date/Time

*Subject to Change

Presentation

Reports

Consent

Second Reading Ordinance

SUBJECT TITLE: Second Reading of Ordinance 2011-14 (Exhibit 1), Amendments to Notice of Intent (NOI) Procedures

EXPLANATION: This item was approved on first reading at the Town Commission meeting of July 26, 2011.

HISTORY: The item was discussed by the Town Commission on three (3) separate occasions (December 14, 2010 / January 25, 2011 / June 14, 2011) with direction that Staff and the Town Attorney look at options for modifying the NOI procedure to shorten the process. Because the NOI procedure is itself a Land Development Regulation, an NOI for possible modifications to the process was approved at the January 25, 2011 Commission meeting. Resolution 2011-01 (**Exhibit 2**) approving the NOI and authorizing the drafting of proposed changes to Chapter 30-531 is attached.

The proposed Ordinance 2011-14 changes the NOI process as follows:

1. Alters the process to save one month in the process. This is accomplished by the Commission holding a public hearing on the proposed resolution at the same time as it adopts the resolution, rather than adopting the resolution and then holding a later public hearing.
2. Clarifies that multiple ordinances can be adopted to address an issue under a single NOI.
3. The Commission would determine at what date development applications must conform to pending changes in regulations.
4. That the Commission may extend the time frame of the NOI and may amend the resolution authorizing the NOI, provided the total time frame does not exceed one year.

BOARD RECOMMENDATION: At its meeting on July 20, 2011, the Planning and Zoning Board recommended approval, with one recommendation which has been incorporated into the attached Ordinance. The Board recommended the Ordinance be revised to clarify to read that applications for development approvals that had been submitted prior to the effective date of the NOI, or the date otherwise established by the Town Commission, would not be subject to the new regulations of the NOI. This was accomplished by amending section 30-531(h)(1), lines 163-168, which the Commission approved on First Reading.

RECOMMENDATION: We recommend approval of the proposed ordinance on second reading.

EXHIBITS: Exhibit 1 – Ordinance 2011-14
Exhibit 2 – Resolution 2011-01

Reviewed by Town Attorney
 Yes No

Town Manager Initials CB

Exhibit 1

ORDINANCE 2011-14

1 **AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-**
2 **THE SEA, AMENDING SECTION 30-531, OF THE CODE**
3 **OF ORDINANCES TO AMEND REQUIREMENTS**
4 **RELATED TO NOTICE OF INTENT PROCEDURES;**
5 **PROVIDING FOR CODIFICATION, SEVERABILITY,**
6 **CONFLICTS AND AN EFFECTIVE DATE**
7
8

9 **WHEREAS**, the Town Commission recognizes that changes to the adopted Code of
10 Ordinances (the “Code”) are periodically necessary in order to ensure that the Town’s land
11 development regulations are current and consistent with the Town’s planning and regulatory
12 needs; and

13 **WHEREAS**, Section 30-531 “Notice of Intent”, of the Code, provides an administrative
14 procedure for notifying the public and the development community when the Town undertakes
15 changes in the land development regulations, and for assuring that those development
16 applications filed during the time that such regulations are being developed will have to comply
17 with the eventually adopted regulations; and

18 **WHEREAS**, the Town Commission desires to revise the Notice of Intent provisions to
19 streamline them and provide greater flexibility in the timing of the adoption process for land
20 development regulations so that the Town Commission and/or Planning and Zoning Board can
21 accommodate additional research and community input without violating or needing to modify
22 the Notice of Intent; and

23 **WHEREAS**, Section 30-531 of the Code requires issuance of a Notice of Intent prior to
24 the processing of any amendment to the land development regulations in Chapter 30 of the Code,
25 and such notice was given of this amendment on January 25, 2011; and

Exhibit 1

ORDINANCE 2011-14

26 **WHEREAS**, the Planning and Zoning Board, sitting as the Local Planning Agency, has
27 reviewed this Ordinance at a duly noticed hearing on May 18, 2011 and recommended its
28 adoption; and

29 **WHEREAS**, the Town Commission conducted a first and second reading of this Ordinance
30 at duly noticed public hearings, as required by law, and after having received input from and
31 participation by interested members of the public and staff, the Town Commission has determined
32 that this Ordinance is consistent with the Town's Comprehensive Plan and in the best interest of the
33 Town, its residents, and its visitors.

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

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

39 **SECTION 2. Amendment.** Section 30-531, Notice of Intent, of Chapter 30, Unified
40 Land Development Code, is hereby amended¹ as follows:

41 **Section 30-531. Issuance of notice of intent; effect on proposed development.**

42 (a) *Statement of intent.*

43 (1) The Town, from time to time, will propose changes to the Land
44 Development Code of the Code of Ordinances ~~of the Town of Lauderdale-~~
45 ~~By The Sea.~~

46 (2) The purpose of this section is to provide an administrative procedure for
47 the public and the development community to be notified of certain
48 changes in the land development regulations, as defined herein, which
49 may impact proposed plans for development within the Town of
50 Lauderdale-By-The-Sea as early in the Code revision process as possible.
51 This will to best ensure that affected parties do not unnecessarily expend
52 time, money and resources on any proposed development projects which
53

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

Exhibit 1

ORDINANCE 2011-14

- 54 will be subject to but in conflict with such amendments to land
55 development regulations.
- 56 (3) It is further the purpose of this section to ensure that ~~upon the issuance of~~
57 ~~the notice of intent, as hereinafter provided~~ subsequent to the date or point
58 in the development approval process at which the proposed development
59 regulations apply as designated in the Notice of Intent, no proposed land
60 development project affected by a pending regulatory change shall be
61 approved by any Town Officer, Official, Commission, Board, Agency or
62 Body, whether elected or appointed, unless it said proposed land
63 ~~development project~~ (i) conforms with the pending regulatory change
64 and/or (ii) the proposed land development project approval is conditioned
65 on such conformance pursuant to the pending regulatory change as
66 currently drafted or as finally approved, whichever is appropriate.
- 67
- 68 (b) *Regulations subject to notice of intent.*
- 69 (1) Pending regulations subject to the notice of intent procedure, as provided
70 within this section, shall include development regulations as defined by
71 F.S. § 163.3213, as amended from time to time, and comprehensive plan
72 amendments which are a condition precedent to land development
73 regulatory changes.
- 74 (2) Land development regulations which provide only for regulations of
75 residential accessory uses shall not be subject to this section.
- 76
- 77 (c) *Definitions. As used in this section:*
- 78 *Affected parties* includes persons owning property or persons owning or operating
79 a business within the boundaries of the Town of ~~Lauderdale By The Sea~~ whose
80 development application or application for a permit or license is pending.
- 81 *Development activity* means application for a master plan, site plan, rezoning,
82 building permit, variance, or business tax receipt.
- 83 (d) *Notice of intent authorization/effective date/ratification by Town Commission.*
- 84 (1) The Town Commission shall conduct a public hearing regarding the
85 investigation, study, development, drafting or consideration of changes to
86 any land development regulation and shall, by resolution, either approve
87 or disapprove, the further processing of the proposed regulation which is
88 the subject matter of the notice of intent.
- 89 (2) At the time the Town Commission approves the resolution, authorizes, by
90 resolution, the investigation, study, development, drafting or consideration
91 of a changes to any land development regulation that requires issuance of
92 a notice of intent, a notice of intent of the pending regulatory change shall
93 be issued. The effective date of the notice of intent shall be deemed to be
94 the date of said authorization approval by the Town Commission.

Exhibit 1

ORDINANCE 2011-14

- 95 (3) Changes to the Code which implement the authorized changes may be
96 adopted in a single ordinance or multiple ordinances during the effective
97 period, including any time extensions, of the notice of intent.
- 98 (2) ~~At the next Commission meeting following the notice of intent, members~~
99 ~~of the public shall have the opportunity to address the Town Commission~~
100 ~~in a public hearing format relative to a filed notice of intent. After the~~
101 ~~public hearing the Town Commission by majority vote shall either~~
102 ~~approve or disapprove the further processing of the proposed regulation~~
103 ~~which is the subject matter of the notice of intent.~~
- 104
- 105 (e) *Statement of purpose.* The notice of intent shall include:
- 106 (1) A statement of purpose;
- 107 (2) A brief description of the pending regulatory change which shall include
108 as much specificity as possible including an indication of the provisions of
109 the existing code that may require modification; recognizing however, that
110 changes may occur as the pending regulation proceeds through the
111 drafting, review, public meeting and public hearing process; ~~The~~
112 ~~description shall include a statement of the possible effect that the pending~~
113 ~~regulation may have on development. In addition, the description shall~~
114 ~~provide an indication of the provisions of the existing code that may~~
115 ~~require modification;~~
- 116 (3) A statement of the projected time frame for the adoption of any
117 ordinance(s) addressing the pending regulation(s), which shall be within
118 one year from the date of approval of the notice of intent if not specified
119 by the Commission;
- 120 (4) A statement specifying the date (the “Conformance Date”), or point in the
121 development approval process, at which, -of the point in the development
122 approval process at which- all applications must either i) conform to the
123 pending regulation(s), or ii) be conditioned upon future compliance with
124 the pending regulation(s). the pending regulation would apply.
- 125
- 126 (f) *Posting of notice.*
- 127 (1) The notice of intent shall be posted, on the Town’s website, and in a
128 conspicuous location in the development services department; and in a
129 ~~conspicuous location in Town Hall.~~
- 130 (2) From and after the issuance of the notice of intent, applicants for
131 appropriate licenses, permits, and other applicable development
132 applications, including but not limited to plats, site plans, rezonings,
133 variances, business tax receipts, and building permits, ~~shall be provided~~
134 ~~written notice of the pending land development regulatory changes which~~
135 ~~may potentially affect the applicant. Applicants shall shall be notified of~~
136 notices of intent relevant to their application be provided written notice by
137 ~~certified or regular mail and through the availability of notices in the~~

Exhibit 1

ORDINANCE 2011-14

138 development services department, posting of notices on the Town's
139 website, and ~~the~~ by posting of the notices of intent as prescribed herein.
140 To the extent that affected parties have comments, they ~~may~~shall be
141 ~~afforded the opportunity to~~ file written opinions or objections with the
142 Development Services Director.

143 (3) Neither the failure of the Town to provide ~~written~~ posted notice nor the
144 failure of an applicant for development to observe the posted notice ~~nor~~
145 ~~the failure of the Town to provide posted notice~~ shall invalidate the
146 applicability of this article to said applicant for development approval.

147
148 (g) *Implementation time frame.*

149 (1) A pending regulatory change that is subject to the notice of intent
150 procedure shall be considered by the Town Commission at a public
151 hearing within a the time period(s) prescribed in ~~by the Town at the time~~
152 ~~of the filing of the notice of intent.~~

153 (2) If additional time is required for study and deliberation, ~~due to the scope~~
154 ~~of the proposed regulatory changes or arising from procedural issues, upon~~
155 ~~a majority vote of the Town Commission~~ may amend the authorizing
156 resolution, to extend the time prescribed by the Town in the notice of
157 intent, provided the total implementation time, as extended, does not
158 exceed one year. ~~may be extended for an additional period of time~~
159 ~~approved by the Town Commission upon expiration of the initial period of~~
160 ~~time stated in the notice of intent.~~

161 (3) If no final action has been taken by the Town Commission within the time
162 limits set forth herein, the notice of intent will expire.

163 (h) *Effect on pending or proposed development permits.*

164 (1) A notice of intent shall have no effect on any application for development
165 activity (a master plan, site plan, rezoning, variance, building permit, or
166 business tax receipt) pending for approval on the effective date of a notice
167 of intent, or the Conformance Date, whichever is later. ~~December 12,~~
168 ~~2000 or approved on or before December 12, 2000.~~

169 (2) ~~Except as provided in [subsection] (1) above, a~~ No application for
170 development activity (a master plan, site plan, rezoning, variance, building
171 permit, or business tax receipt) shall be accepted for processing by the
172 Town following the date specified by the Town Commission in the Notice
173 of Intent, issuance of a notice of intent unless (i) said application conforms
174 with the pending regulatory change and/or (ii) the application is
175 conditioned on such conformance pursuant to the pending regulatory
176 change as currently drafted or as finally approved, whichever is
177 appropriate.

178

Exhibit 1

ORDINANCE 2011-14

- 179 (i) ~~Evidence of general Strict compliance not required.~~ Evidence of general
180 | compliance with the procedures and requirements of this section of the Code shall
181 | be sufficient to ~~preventsustain~~ the land development regulation from being
182 | invalidated for the failure to strictly comply with this section upon adoption.
183
184 (j) *Copies to Planning and Zoning Board.* The Planning and Zoning Board shall be
185 provided with a copy of all notices of intent upon issuance.
186

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

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

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

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

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

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

202
203
204
205

Mayor Roseann Minnet

206

First Reading

Second Reading

Exhibit 1

ORDINANCE 2011-14

207 Mayor Minnet _____
208 Vice-Mayor Dodd _____
209 Commissioner Clotey _____
210 Commissioner Sasser _____
211 Commissioner Vincent _____
212 _____

213 Attest:

214 _____
215 Town Clerk, June White, CMC

216 (CORPORATE SEAL)

217 Approved as to form:

218 _____
219 _____
220 Town Attorney, Susan L. Trevarthen

RESOLUTION NO. 2011-01

1 **A RESOLUTION OF THE TOWN COMMISSION OF THE**
2 **TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA**
3 **PROVIDING FOR ISSUANCE OF A NOTICE OF INTENT**
4 **CONCERNING PENDING LAND DEVELOPMENT**
5 **REGULATIONS**

6
7 **WHEREAS**, Section 30-531 of the Code of Ordinances of the Town of Lauderdale-By-
8 The-Sea (the "Code") provides for a procedure for the public and the development community to
9 be notified of changes to the Town's land development regulations through the issuance of a
10 notice of intent of pending land development regulations; and

11 **WHEREAS**, pursuant to Section 30-531(b) of the Code, the Town Commission shall
12 authorize the investigation, study, development, drafting and consideration of all proposed
13 amendments to the Town's land development regulations, and related comprehensive plan
14 amendments; and

15 **WHEREAS**, the Town Commission, in the process of revising the permitted uses in
16 business districts in Ordinance 2010-15, identified uses for possible inclusion in the business
17 districts as "Conditional Uses" which require issuance of a notice of intent pursuant to Section
18 30-531(h) of the Code; and

19 **WHEREAS**, there is a need to provide a uniform approach to Conditional Use
20 procedures and possibly to revise other development review procedures as needed; and

21 **WHEREAS**, an evaluation of the size of fuel storage tanks for generators within the
22 Multi-family and Business Districts should be conducted to ensure the ability of facilities to
23 comply with Florida Statutes; and

24 **WHEREAS**, the Town Commission has directed that the Notice of Intent procedures be
25 reviewed to provide notice to the public while streamlining the Land Development Code

26 amendment process and providing flexibility in the adoption process to accommodate research
27 and public input; and

28 **WHEREAS**, the Town Commission has directed a review of regulations addressing
29 Walls and Fences; and

30 **WHEREAS**, the Town is working with Town residents and businesses and design
31 professionals to develop a vision for the future of the Town; and

32 **WHEREAS**, revision of the architectural standards and review criteria to address this
33 vision and achieve consistency between the Town's Master Plan and Land Development
34 Regulations is being considered; and

35 **WHEREAS**, the Town Commission desires to study the potential for, and impacts of,
36 providing for wine bar uses in certain zoning districts; and

37 **WHEREAS**, Section 30-531(f) of the Code provides for posted written notice of the
38 pending amendments; and

39 **WHEREAS**, pursuant to Section 30-531(d) of the Code, the Town Commission shall
40 hold a public hearing at the next Commission meeting following issuance of a notice of intent,
41 and by majority vote shall either approve or disapprove the further processing of the proposed
42 amendments.

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

45 **SECTION 1. Authorization.** Pursuant to Section 30-531 of the Code of Ordinances,
46 the Town Commission authorizes the investigation, study, development, drafting and
47 consideration of the proposed comprehensive plan amendments, as described in the Notice of
48 Intent of Pending Comprehensive Plan Amendments attached hereto as Exhibit "A."
49

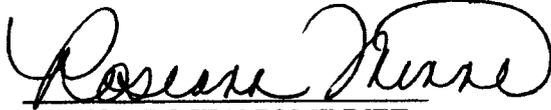
50 **SECTION 2. Effective date of notice.** The Town Commission hereby finds that the
51 effective date of the Notice of Intent of Pending Land Development Regulations shall be January
52 25, 2011.

53 **SECTION 3. Public hearing.** The Town Commission shall hold a public hearing
54 concerning the Notice of Intent of Pending Land Development Regulations on February 22,
55 2011, and approve or disapprove of the further processing of the proposed regulations.

56 **SECTION 4. Effective date of resolution.** This Resolution shall become effective
57 immediately upon passage and adoption.

58 **PASSED AND ADOPTED** this 25th of January, 2011.

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MAYOR ROSEANN MINNET

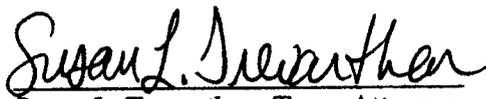
64 ATTEST:

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June White, CMC Town Clerk

70 Approved as to form:

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72
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74


Susan L. Trevarthen, Town Attorney

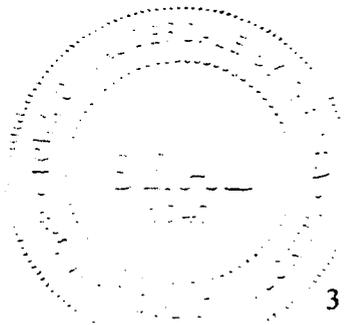


Exhibit "A"

Notice of Intent of Pending Land Development Regulations
Effective January 25, 2011

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 scheduled for hearing and adoption by ordinance.

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

- a. Amending Section 30-261 and Section 30-271 to include Conditional Uses within the Business Districts.
- b. Amending Chapter 30 to address Conditional Use procedures and possibly to revise other development review procedures as needed.
- c. Amending Section 30-313 to increase the allowable size of fuel storage tanks for generators within the Multi-family and Business Districts and address additional regulations related to generators.
- d. Amending Article IX, Notice of Intent of Land Development Regulations, Section 30-531 to streamline the Land Development Code amendment process and provide flexibility in the adoption process.
- e. Amending Section 30-313 regarding fencing and cement or concrete walls.
- f. Amending Section 30-9 and Section 30-124 (15) Architectural Standards and Review Criteria.
- g. Amending Section 30-261 and Section 30-271 to provide for wine bars within the Business Districts.
- h. Amending any code sections relating to the above referenced issues and sections as necessary to address the subject matter.

3. Projected Time Frame for Adoption of Regulations and Plan Amendments:

- | | |
|--|---|
| a. Public Hearing and Town Commission Approval
to Proceed with Proposed Amendments: | <u>February 22, 2011</u> |
| b. Planning and Zoning Board Meetings: | <u>February, 2011 – September, 2011</u> |
| c. Adoption of Ordinances | <u>February, 2011 – September, 2011</u> |

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.