

ORDINANCE NO. 150-03-106

AN ORDINANCE OF THE CITY COMMISSION OF LAUDERHILL, FLORIDA AMENDING THE LAND DEVELOPMENT REGULATIONS (LDR) AND PERTAINING TO PUBLIC NOTICE; AMENDING LDR ARTICLE IV., DEVELOPMENT REVIEW REQUIREMENTS, PART 1.0., GENERAL APPLICATION FILING, REVIEW, AND FINAL DETERMINATION, SECTION 1.9., PUBLIC NOTICE REQUIREMENT BY CREATING SUBSECTION 1.9.4., PUBLISHED NOTICE; CREATING SUBSECTION 1.9.5., CONSTRUCTIVE NOTICE; AMENDING PART 2.0., ZONING MAP AMENDMENTS, SECTION 2.10, PUBLIC NOTICE; AMENDING ARTICLE IV., PART 3.0., PROCEDURES FOR OBTAINING RELIEF FROM THE LDR, SECTION 3.1., VARIANCES, SUBSECTION 3.1.2, NOTIFICATIONS; AMENDING PART 4.0., SPECIAL EXCEPTION USE, SECTION 4.9., NOTICE OF HEARING; AMENDING PART 5.0., DEVELOPMENT PLAN/SITE PLAN REVIEW, SUBSECTION 5.1.2; CREATING PART 6.0., PLAT AND SUBDIVISION REGULATIONS, SECTION 6.22., PUBLIC NOTICE REQUIREMENTS; AMENDING PART 8.0., DEVELOPMENT AGREEMENTS, SECTION 8.8., PUBLIC NOTICE REQUIREMENTS; CREATING PART 9.0., BROWNFIELD REDEVELOPMENT, SECTION 9.8., PUBLIC NOTICE REQUIREMENTS, SECTION 9.8.3., OTHER NOTICE; ADDING CROSS-REFERENCE TO PART 1.0., SECTION 1.9. THROUGHOUT THESE SECTIONS AND SUBSECTIONS AS APPROPRIATE; PROVIDING FOR FINDINGS AND CONCLUSIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE (REQUESTED BY CITY MANAGER, CHARLES FARANDA)

WHEREAS, the City Commission adopted its Comprehensive Plan as is required by the Local Government Comprehensive Planning and Land Development Regulation Act (Act), which Comprehensive Plan was subsequently determined to be in-compliance with said Act; and

WHEREAS, Section 163.3202, Florida Statutes, requires each municipality to adopt or amend and enforce land development regulations that are consistent with and implement their adopted comprehensive plan; and

WHEREAS, on June 11th, 1990, the City Commission implement its adopted Comprehensive Plan as is required by Section 163.3202, Florida

Statutes, by adopting the City of Lauderhill Land Development Regulations; and

WHEREAS, Paragraph 163.3202(2)(b), Florida Statutes, requires the land development regulations contain specific and detailed provisions necessary to regulate the use of land and water for those land use categories included in the land use element and ensure the compatibility of adjacent uses and provide for open spaces; and

WHEREAS, Land Development Regulations Article IV., Development Review Requirements, Part 1.0., General application filing, review and final determination, Section 1.9., addresses Public notice requirements; and

WHEREAS, Section 1.9 inadvertently failed to include published and City posted notice but such notice has been provided in the Planning and Zoning office practice; and

WHEREAS, minor bona fide errors in complying with the LDR's public notice requirements creates uncertainty on the legality of the decision-making bodies final determination, can result in undue delay in the proceeding with the development, and can lead to costly litigation; and

WHEREAS, in order to avoid the above-described concerns, the LDR is being amended to add new provisions pertaining to published, City posted, and constructive notice; and

WHEREAS, at their duly noticed meeting and public hearing of February 24th, 2015 the City's Planning and Zoning Board, sitting as the Local Planning Agency (LPA) entered the Development Review Report on the Ordinance into the record, adopted the findings and conclusions supporting the Ordinance's adoption, and forwarded the record to the City Commission with a recommendation that the Ordinance be adopted and incorporated into the Land Development Regulations; and

WHEREAS, at their duly noticed meeting and public hearing of March 30th, 2015, the City Commission considered the record, adopted findings and conclusions, and approved the Ordinance on first reading; and

WHEREAS, at their duly noticed meeting and public hearing of April 13th, 2015, the City Commission on second reading adopted the Ordinance incorporating revisions to the Land Development Regulations.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAUDERHILL, FLORIDA:

SECTION 1. Published notice. Land Development Regulations Article IV., Development Review Requirements, Part 1.0., General application filing, review and final determination, Section 1.9., Public notice requirements, Subsection 1.9.4., is created as set forth below.

1.9.4. Published notice. At least ten (10) calendar days before a public hearing on any development order application, notice of the public hearing shall be placed in a newspaper of general circulation in the area as is required by general law. The notice also shall be posted in City Hall, either physically posted or on the City's website or both.

SECTION 2. Constructive notice. Land Development Regulations Article IV., Development Review Requirements, Part 1.0., General application filing, review and final determination, Section 1.9., Public notice requirements, Subsection 1.9.5., is created as set forth below.

1.9.5. Constructive notice.

- A. Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt is made to comply with applicable notice requirements. Minor defects in notice may include, but are not limited to:
1. Errors in the legal description provided that the street address, tax folio identification number, or commonly known description is correctly identified elsewhere within the notice; or
 2. Errors in describing the current zoning district of the property as is displayed in the Official Zoning District Map; or
 3. Typographical or grammatical errors that do not impede communication of the notice to affected parties.

- B. Failure of a party to receive written notice shall not invalidate subsequent action in all cases; however, the requirements for the timing of the notice and for specifying the time, date, and place of a public hearing and the location of the subject property or properties shall be strictly adhered to.
- C. If questions arise at the hearing regarding the adequacy of notice, the body directing the hearing shall direct the City Attorney to make a formal finding as to whether there is substantial compliance with the notice requirements of this Section, and such findings shall be made available to the decision making body before final action on the request.

SECTION 3. **Section 2.10. amended.** Land Development Regulations Article IV., Development Review Requirements, Part 2.0., Zoning Map amendments, Section 2.10., Public notice, Subsection 2.10.3., is amended as set forth below.

Sec. 2.10. Public notice.

- 2.10.3. The ~~mailed public notice and property posted notice requirements~~ described in Article IV., Development Review Requirements, Part 1.0., General application filing, review and final determination, ~~Subsections 1.9.1. and 1.9.3~~ Section 1.9 are applicable.

SECTION 4. **Subsection 3.1.2 amended.** Land Development Regulations Article IV., Development Review Requirements, Part 3.0., Procedures for obtaining relief from the Land Development Regulations, Section 3.1., Variances, Subsection 3.1.2., Notifications, is amended as set forth below.

- 3.1.2. The ~~mailed public notice and property posted notice requirements~~ described in Article IV., Development Review Requirements, Part 1.0., General application filing, review and final determination, ~~Subsections 1.9.1. and 1.9.3~~ Section 1.9 are applicable.

SECTION 5. **Section 4.9. amended.** Land Development Regulations Article IV., Development Review Requirements, Part 4.0., Special Exception Uses, Section 4.9., Notice of hearing, is amended as set forth below.

Sec. 4.9. Notice of hearing. The ~~mailed public notice and property posted notice requirements~~ described in Article IV., Development Review Requirements, Part 1.0., General application filing, review and final determination, ~~Subsections 1.9.1. and 1.9.3~~ Section 1.9 are applicable.

SECTION 6. **Subsection 5.1.2. amended.** Land Development Regulations Article IV., Development Review Requirements, Part 5.0., Development Plan/Site Plan Review, Section 5.1., Approval of site plan; application for building and engineering permits, Subsection 5.1.2., is amended as set forth below.

5.1.2. No building permit except as provided in Article IV, Sections 1.5.1, 1.5.2 of the Land Development Regulations shall be issued for any construction or any alteration of existing land and water covered by this Section until such time as the proposed development has been approved by the Planning and Zoning Board of the City with respect to the conditions and criteria set forth in this Section. It shall be the duty of the Planning and Zoning Board to review the plans at a public hearing and shall approve or disapprove the proposed site plan or development plan.

SECTION 7. **Section 6.22. created.** Land Development Regulations Article IV., Development Review Requirements, Part 6.0., Plat and Subdivision Plan Review, Section 6.22., Public notice requirements, is created as set forth below.

Sec. 6.22. Public notice requirements. The public notice requirements described in Article IV., Development Review Requirements, Part 1.0., General application filing, review and final determination, Section 1.9 are applicable.

SECTION 8. **Section 8.8. amended.** Land Development Regulations Article IV., Development Review Requirements, Part 8.0., Development Agreements, Section 8.8., Public notice requirements, is amended as set forth below.

Sec. 8.8. Public notice requirements. Before holding any of the three (3) public hearings required for entering into, amending, or revoking a development agreement, the public notice requirements set forth below must be satisfied.

8.8.1. The notice of intent to consider a development agreement shall be advertised approximately seven (7) ten (10) days before each public hearing in a newspaper of general circulation and readership in Broward County.

8.8.2. The ~~mailed public notice and property posted notice requirements~~ described in Article IV., Development Review Requirements, Part 1.0., General application filing, review and final determination, ~~Subsections 1.9.1. and 1.9.3~~ Section 1.9 are applicable.

SECTION 9. **Section 9.8. amended.** Land Development Regulations Article III., Zoning Districts, Part 9.0., Brownfield Redevelopment, Section 9.8., Public notice requirements, Subsection 9.8.3., Other notice, is created as set forth below.

Sec. 9.8. Public notice requirements.

9.8.1. *City initiated brownfield area designations.* At least ten (10) days before the public hearing, the Department shall confirm compliance with the public notice requirements set forth below.

- A. Publication. Notice of the public hearing shall be placed in a newspaper of general circulation in the area and in ethnic newspapers or local community bulletins.
- B. Mailed Notice. Notice shall be mailed to all property owners and homeowners, business, civic, condominium or similar organizations within five hundred (500) feet of the proposed brownfield area boundary. In the case of condominium associations, each condominium owner is not required to be provided with individual notice, notice provided to the chief elected officer of the condominium association shall be considered sufficient.

- C. Posted Notice. Notice of the public hearing shall be posted within the area proposed for designation on the Brownfield Map.

9.8.2 *Owner-initiated brownfield area designation and site rehabilitation agreement.* At least ten (10) days before the public hearing, the Department shall confirm compliance with the public notice requirements set forth below.

- A. Publication. Notice of the public hearing shall be placed in a newspaper of general circulation in the area and in ethnic newspapers or local community bulletins and the notice shall be at least sixteen (16) square inches in size.
- B. Mailed Notice. Mailed notice shall be as provided for in paragraph 9.8.1.B.

9.8.3. *Other notice.* The City Hall posted and constructive notice provisions in Article IV., Development Review Requirements, Part 1.0., General application filing, review and final determination, Section 1.9 shall apply.

SECTION 10. Findings and Conclusions. The Development Review Report prepared by the Planning and Zoning Department is attached hereto, is incorporated herein, and are hereby adopted as the findings of fact and conclusions of law to support the Ordinance amending Land Development Regulations.

SECTION 11. Conflict. All ordinances or parts of ordinances, all resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed as to the extent of such conflict.

SECTION 12. Codification. The provisions of this Ordinance shall become and be made a part of the City of Lauderdale, Florida Land Development Regulations; sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; and the word "ordinance" may be changed to "article," "part," "section," or other appropriate word.

SECTION 13. Effective Date. This Ordinance shall take effect immediately upon its adoption.

DATE this _____ day of _____, 2015.

PASSED on first reading this 30 day of March, 2015.

PASSED AND ADOPTED on second reading this _____ day of _____, 2015.

PRESIDING OFFICER

ATTEST:

CITY CLERK

| | FIRST READING | SECOND READING |
|-------------|-----------------|----------------|
| MOTION | <u>Bates</u> | _____ |
| SECOND | <u>Thurston</u> | _____ |
| M. BATES | <u>Yes</u> | _____ |
| H. BENSON | <u>Yes</u> | _____ |
| H. BERGER | <u>Yes</u> | _____ |
| K. THURSTON | <u>Yes</u> | _____ |
| R. KAPLAN | <u>Yes</u> | _____ |