



Commission Workshop

Jarvis Hall

Commission Workshop

COMMISSION WORKSHOP

Being held at Thursday, May 16, 2019
Jarvis Hall

CALL TO ORDER

PUBLIC COMMENT

DISCUSSION ITEM

Downtown Discussion - Music

[5-17-19 AM Noise Level Staff Memo 3F99100.DOCX](#)

[Exhibit 1- Noise Discussion Workshop.pdf](#)

[Exhibit 2 Minutes 2013-08-20 Regular.pdf](#)

[Exhibit 3 Sec. 3_6. ___ Regulations as to conduct on premises _ Generally..pdf](#)

[Exhibit 4 Sec. 13_6. ___ Noise limitations..pdf](#)

Downtown Discussion - Signage

[5-16-19 AM Downtown Discussion - Signage.docx](#)

[Ex1 ARTICLE_VIII. ___ SIGN REGULATIONS.pdf](#)

Downtown Discussion – Sidewalk Café

[5-16-19 AM Downtown Discussion Sidewalk Cafe.docx](#)

[Ex1 CHAPTER 17 ARTICLE_VI. ___ SIDEWALK_CAFE.doc](#)

ADJOURNMENT

THE TOWN OF LAUDERDALE-BY-THE-SEA WILL FURNISH APPROPRIATE AUXILIARY AIDS AND SERVICES NECESSARY TO AFFORD INDIVIDUALS AN EQUAL OPPORTUNITY TO PARTICIPATE IN MEETINGS OF THE TOWN COMMISSION. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT AND FLORIDA STATUTE 286.26, PERSONS WITH DISABILITIES NEEDING SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS PROCEEDING SHOULD CONTACT THE TOWN CLERK NO LATER THAN TWO (2) DAYS PRIOR TO THE MEETING AT (954) 640-4200 FOR ASSISTANCE.

IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE TOWN COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING OR HEARING, HE/SHE WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSES MAY NEED TO INSURE THAT A VERBATIM RECORDING OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

PROCEDURES FOR PUBLIC COMMENTS:

Public Comments may address issues that are not on this meeting's agenda, but should relate to the business of the Town, and should not contain personal attacks. If your comment requires follow up, the Town Manager will have a staff person respond to your concerns, and will advise us of the outcome.

The Town Clerk will read off the names of those who have signed up to speak. When your name is called, please come to the podium, state your name for the record, and indicate whether you are a Town resident. Do not state your address. You have up to

three minutes to make your comments, but there is no requirement to use the entire time. If you wish to address a particular Commissioner or member of Town Administration, please do so by use of their title.

If you wish to approach the Commission dais to hand out a document or for some other reason, please request permission and state your reason for doing so. All documents to be provided to the Commission should be handed to the Town Clerk for distribution.

These procedures have been developed to assure that the Town Commission meeting time is efficiently used, and that meetings are conducted in a polite and respectful manner. More information on the decorum rules for Town Commission meetings is available in Section 2-23 of the Town Code of Ordinances.



Item No. _____

Agenda Memorandum

**Administration &
Development Services**

Department

Bill Vance & Linda Connors

Director

COMMISSION WORKSHOP MEETING DATE: May 16, 2019

ITEM CATEGORY: New Business

SUBJECT TITLE: Downtown Discussion – Music

EXPLANATION: The Town Commission asked Staff to develop a workshop to discuss noise levels, signage, and sidewalk café regulations. Staff is requesting that the Town Commission review the information in order to discuss the enforcement of the regulations and determine whether any changes should be made to the Town’s noise regulations.

BACKGROUND:

History of Town Noise Regulations

In the past ten (10) years, the Town has reviewed the Noise Ordinance twice. In 2009, the Noise Ordinance was amended to remove subjective language and replace it with a decibel-based standard. The Town Commission Special Workshop April 7, 2014 meeting minutes, further background information, decibel readings, and staff recommendations regarding these amendments are attached as **Exhibit 1**. At that time, the noise regulations were set at 90DBA/95DBC.

In 2013, the Town Commission received a petition from residents of Oriana Condominium opining that the allowed noise level in the commercial district was too loud in the adjacent residential area, not only during the Friday and Saturday night events but at other times during the week. Oriana residents asked the Town Commission to decrease the allowed decibel levels by 50%. The Town Commission discussed this issue at the August 20, 2013 meeting. A copy of the agenda item and related minutes are attached as **Exhibit 2**. As a result of this and associated meetings, the Town Commission amended the code by decreasing the dBA and dBC levels from 90 dBA and 95dBC to 85 dBA or 85 dBC in the commercial area, between the hours of 7:00 a.m. and 10:00 p.m.

Current Town Code Limits for Noise

The Town regulates noise in Chapter 3, “Alcoholic Beverages” and Chapter 13, “Noise” of the Town Code of Ordinances (the “Town Code”).

- Town Code Section 3-6 (**Exhibit 3**) prohibits entertainment, including music or singing after 12 a.m. “...in any room where beer, wine, liquor and/or any other alcoholic beverages are sold or



offered for sale, indoors or outdoors except those rooms which are soundproofed so that the noise therefrom may not disrupt the peace and quiet of the neighborhood...”

- Town Code Section 13-6(c)(1) (**Exhibit 4**) limits noise in the business district to 85 from 7:00 a.m. to 10:00 p.m. The noise limitation drops to 75 decibels for the time period from 10:00 p.m. to 7:00 a.m.

Outdoor Music and Special Events

Currently, the Town Code is silent regarding outdoor music; therefore, in the past, outdoor music has been permitted as long as the musician remains on private property. Outdoor music is also permitted when approved by the Town Commission as part of a special event. However, musicians have not been permitted to locate within our sidewalk café areas.

When the music is inside the property limits, noise measurements are taken at the property line. When the music is part of a special event, the measurement is taken at 100 feet from the source of sound, and the musician is allowed to stand within a pre-designated portion of the Town right-of-way. The only exception to the noise limit after 10:00 p.m. is the Friday Night Music event, which is specifically allowed at 85 decibels until 10:30 p.m., one-half (1/2) hour later than the Town Code typically allows.

Codes of Neighboring Cities for Noise

In preparing for this meeting, Staff surveyed other Broward municipalities to compare the Town regulations for commercial areas to theirs. The results are outlined in Table 1.

Table 1 – Community Comparison

Municipality	Before 10 p.m. dBA	After 10 p.m. dBA	Special Events Exemption
Lauderdale-By-The-Sea	85 dBA or dBC	75 dBA or 75 dBC	Friday night event until 10:30 p.m. 85 dBC/dBA
Dania Beach	65	60	Yes
Davie	60	60	Yes
Lighthouse Point	65	60	Yes
Fort Lauderdale			
Commercial District	65	65	
Entertainment District	85 (to 1 am)	70 (1 to 3 am)	
Pompano Beach	65	65	Yes
Wilton Manors ⁽²⁾	65/75	65/75	No

⁽¹⁾ dBC captures the sound of a low, thumping bass.

⁽²⁾ Wilton Manors measures max L50 sound/Lmax Sound Levels



ISSUES:

Increasingly over the past year, Staff has received complaints about the noise level associated with music. Last May, Staff had a meeting with the downtown restaurants to discuss sidewalk café regulations and the sound levels allowed by the Town Code. The meeting ended with the restaurant owners agreeing to self-regulate compliance with both sidewalk café and noise regulations.

Thereafter, in 2019, Staff has continued to receive complaints on the constant reportedly excessive noise levels in the downtown area. The Town Commission has directed Staff to review the following:

1. Noise level;
2. Frequency of Events; and
3. Location of the source of music

1. Noise Level

To determine the sources and the level of the noise, Staff dispatched noise readers on 17 different occasions from February 15 to March 24, 2019. Table 2 outlines the restaurants that have music, the types of music allowed, and the number of times Staff have documented that they exceeded the Town Code requirements by more than 1 decibel.

Table 2 – Incidents of Excessive Noise (February-March 2019)

Restaurant/Event	Outdoor (Private Property)	Interior Music	Special Event	Number of Times Exceeding Noise Limits
Aruba		X		1
Friday Music			X	6
Mango's	X			1
Mulligan's		X		1
Station 44	X		X	6
Taco Craft			X	0
Village Grille		X		2
Vinny's		X		6

2. Frequency of Events Issue

Staff receives complaints from residents that the noise is occurring “every night” and the residents never get a reprieve. Staff compared the number of approved Special Events in the downtown area in 2010, 2014, 2018 and 2019 (excluding weddings). In 2010, there were approximately 68 events during the year that had music in the downtown area. That number increased to 102 in 2014. In 2018, the number decreased to 54 mostly due to Athena's by the Sea cancelling their Saturday night events. To date, there are 154 approved/proposed events that have music for 2019. The 66 Sunday night music



events which were previously approved have been discontinued so we are projected to enjoy 88 nights of music in the downtown this year. This is approximately a 63% increase over the previous year. The approved events are outlined in Table 3 below.

Table 3 – Approved Downtown Events

Event	2010	2014	2018	2019 (TBD PERMITTED IN RED)
Friday Night Music	57	30	31	30
Christmas by the Sea	1	1	1	1
Menorah Public Lighting	1	1	1	1
October Fest	1	0	0	0
St Patrick's Day	1	2	1	1
Aruba Memorial Day	1	1	0	0
Fourth of July	1	1	1	1
New Year's Eve	1	1	1	1
BugFest/Diveheart	0	1	2	2
Saturday Night Music	0	57	13	43
Sunday Music	0	0	0	66*
Holiday Music (Station 44)	0	0	0	5
Sunday Night Football	0	1	1	1
Patriot's Fan Day	1	1	1	1
Arts and Crafts Fair	2	4		
Easter Sunrise Service	1	1	1	1
TOTAL EVENTS	68	102	54	88

* These events were previously approved but have now been cancelled.

3. Location of Source of Music Issue

Listed in Table 4 below, are the restaurants that have music and the number of times the music is played each week.



Table 4 – Downtown Music

Restaurant	Music – Outside/Inside	Type	# per Week
Aruba	Inside (closed doors)	Live	7
Anglin's Beach Café	Outside	Live	*
Mulligan's	Inside (open area)	DJ	1-2
Station 44	Both	Live	3
Taco Craft	Inside	Live/DJ	5
Village Grille	Inside (closed doors)	Live	4
Valenti's	Outside	Live	4
Vinnie's	Inside (open area)	Live	7

*No response from our request for information

TOWN STAFF RESPONSE TO ISSUES

The Town Commission requested a workshop on the noise issues at its January 22, 2019 meeting. Because Bud Bentley was retiring and a new Town Manager would need to handle the issue, the Town Commission deferred the workshop until the new Town Manager was hired.

Bill Vance started his position as the new Town Manager in March 2019 and since then, he has been meeting with the restaurant owners to introduce himself and to also remind them of the noise limitations specified in the Town Code. During those discussions, he has asked them to voluntarily comply with the Town's regulations. When we have received complaints, Mr. Vance has contacted the restaurant and asked them to immediately resolve the issue by either changing the location of the music so that it is projecting into the restaurant instead of out towards the street, or requiring them to contact their tenants to immediately lower the volume of the music.

EXPECTED OUTCOME: The Town Manager suggests the following changes be made to the Town Code

1. Cease issuing special event permits for a weekly, single establishment. Rather, issue special event permits only as part of a cooperative effort that involves more than one establishment and use of Town right-of-way.
2. Establish a conditional use permit for musical entertainment that will be located inside the business. This permit will be issued to the property owner and include:
 - i) Location of the music inside the building
 - ii) Date and times music will be played
 - iii) Specific information regarding the allowable sound level
 - iv) Contact information and response requirements (similar to Vacation Rental)



If permit conditions are not met, the conditional approval may be revoked by the Town.

3. Prohibit amplified music outside of soundproofed rooms, except as part of a Town-approved special events.

Exhibits:

1. Noise Discussion Workshop
2. Minutes of August 20, 2013 Commission meeting
3. Section 3-6 of the Town's Code
4. Section 13-6 of the Town's Code

	Yes	☐	No
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Reviewed by Town Attorney:

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**LAUDERDALE-BY-THE-SEA
TOWN COMMISSION
SPECIAL WORKSHOP
Jarvis Hall
4505 Ocean Drive
Monday, April 7, 2014
6:00 P.M.**

1. CALL TO ORDER

Mayor Scot Sasser called the meeting to order at 6:00 p.m. Also present were Vice Mayor Chris Vincent, Commissioner Mark Brown, Commissioner Stuart Dodd, Commissioner Elliot Sokolow, Town Manager Connie Hoffmann, Assistant Town Manager Bud Bentley, Town Attorney Susan L. Trevarthen, Captain Fred Wood, and Deputy Town Clerk Tedra Smith.

2. DISCUSSION ITEM

a. Discussion of Road Closures during Special Events (Mayor Scot Sasser)

Mayor Scot Sasser opened the meeting to public comment.

Pamela Ulmer-Broughton pointed out that the public finds weekend activities such as concerts to be very enjoyable, and they appear to be revenue-producing activities for restaurants and other businesses. She concluded that the Town would be ill-advised to discontinue these activities for these reasons.

Bill Ciani, commercial property owner, stated that road closures on Friday nights create "a total loss" for his restaurants and other nearby businesses, as traffic is disrupted and parking is taken up during concerts. He emphasized the importance of weekend business, and suggested that bands could be moved onto the wider sidewalks or the square.

Anthony Delia, of 101 Ocean, said he would like both residents and businesses to be heard in the process of determining road closures.

Steven DeLeon, of the Village Grille, asserted that the Friday night events were very beneficial for many years and the Town has become known for it; however, he did not take exception to the possibility of discontinuing the events if the Commission wished.

Arlean Damurjian, of Ocean Reverie, said she did not object to music on the Square, but felt its decibel level should be lowered. She added that it currently is impossible to walk in front of 101 Ocean due to traffic, and a pathway should be maintained there for pedestrians.

Elaine Gunnell, a resident in the Oriana condominium, agreed with Ms. Damurjian's statement, and asked the following questions:

- Whether it was possible for businesses to secure permits for every day of the year, or if the number of permits available to businesses was limited;
- Whether it was possible to have more than one sound meter at events;
- Whether this meter is accessible to the Police throughout the evening;
- Whether there are penalties enforced for events going over their time limit or sound limit;
- Whether additional landscaping could be added to buffer sound.

Paul Novak, of High Noon, pointed out that when events first began on El Mar Drive, only one side of the street was closed. He stated that closing both sides of the street creates difficulty for hotel guests. He felt the Town could take advantage of its new Square by using the Pavilion and the Square itself to accommodate some of the weekend events.

Cristie Furth, of Blue Seas Courtyard, stated that traffic lane closures create difficulties for her business and others on El Mar Drive, as access is entirely closed on Friday nights. This cuts off hotels and other small businesses from potential customers on weekends. She asserted that she was in favor of continuing the Downtown Friday Night events, but did not feel lane closures and times for musical performances should have been expanded.

Marc Furth, also of Blue Seas Courtyard, advised that events could be staged in the Dune Plaza and on the nearby sidewalk. He showed a rendering of this proposed traffic pattern, noting that additional signage and possible Police direction would be needed. A fencing system could also be incorporated in this area during special events. He concluded that he felt this would present a win/win situation, as the bands would face away from the residential neighborhood in the proposed configuration.

Doreen Krenchicki stated she wished to show her support for outdoor music.

Sharlene Sposit said she was also supportive of live music on weekends.

Bill Vitollo, resident, said while some businesses could stage entertainment in the Plaza, others would need to use sidewalks. He hoped that restaurants would use the Plazas and acknowledged the hardship that road closures placed on hotels and other businesses.

Spiro Marchellos, of Fisherman's Pier Inc., stated that his primary concern was leaving the A1A beach parking area on Friday nights, which was very time-consuming. He also expressed concern with accessing A1A and Commercial Avenue on Sundays due to the presence of the Farmers' Market downtown, and asserted that businesses are losing revenue due to this lack of access. He advocated in favor of more parking for the businesses.

Diana Kugler, resident, stated that sidewalks should not be closed, and noted that the stage in its present location can be a hazard for pedestrians. She felt the weekend entertainment is attractive to both residents and tourists.

Ellen Zavell, President of the Lodging Association of Lauderdale-By-The-Sea, said she had never heard her guests complain about noise or music. She suggested that street closures could be addressed through signage. She concluded that weekend events attract visitors, and requested that these events continue.

Mayor Sasser advised that if the Commissioners wished for more information from the public, they could invite individuals to return to the podium for questions. He emphasized the importance of public input on this and other community issues, and noted that the Commission would like to hear some direction before making policy decisions at subsequent meetings. It was clarified that the only items under discussion at tonight's meeting were the closure of El Mar Drive and the regulation of noise.

Commissioner Brown advised that he has not yet made up his mind on this issue, but pointed out that the downtown events had helped sustain many businesses during the recent recession. He asked if the music would still have the same significance to Downtown businesses at present, and if the businesses would consider sponsoring music indoors rather than outside.

Mr. DeLeon said discontinuing the closure of El Mar Drive on Friday nights would not significantly harm his business. He did not feel opening the street would have a negative effect, and stated that he supported those businesses that did not wish to have the streets remain closed. Mr. Delia, however, advised that moving entertainment to the square would be logistically difficult for his business, and he would be unlikely to continue sponsoring events in that case.

Vice Mayor Vincent asked if Mr. Delia's business would lose revenue if the Friday night events are discontinued. Mr. Delia said the events bring in revenue, and he would be concerned if the weekend entertainment is stopped, as there were no other events to encourage people to remain in the downtown area.

Mayor Sasser emphasized that while moving the music or events could lead to decisions by businesses to no longer sponsor these events, this was not communicated in the manner of a threat, but was simply a possible individual business decision. He thanked the business owners for their honest feedback on this issue.

Commissioner Sokolow noted that there was a large diversity of opinion on this issue, with hotels, residents, and businesses on both sides, although most seemed to agree that the events were positive. He observed that another workshop directly involving stakeholders could lead to a more creative solution.

Commissioner Dodd commented that he has recently attended some of the Friday and Saturday night events, and noted that parking is greatly improved and people seemed to be enjoying themselves and bringing business to the area. He noted, however, that open container laws appeared to be a problem, and that the downtown area should be considered an entertainment district only for the duration of a given event, as both these issues put greater pressure on the events' Police support.

He continued that Saturday night events presented a public safety issue, as they placed a stage, tables, and pedestrian traffic into a small space, and advised that he would prefer bands to be inside restaurants rather than outside for this reason.

Mayor Sasser asked if changing from a double- to a single-lane closure could present a solution for hoteliers and Police personnel. He also asked if another solution might be holding the events with less frequency, such as monthly or bimonthly rather than every weekend.

Mr. Novak and Mr. Furth commented that closing lanes on the west side of the street in question would be more beneficial to their businesses. Mr. Novak added that a parking garage is needed in the area to alleviate congestion.

Assistant Town Manager Bentley pointed out that the current permit application for entertainment ends in May 2014, while the next application does not take effect until November. This would mean no events are planned for the interval.

Vice Mayor Vincent proposed that events could be held in alternating areas on Friday and Saturday nights, such as on the east side of town on Friday nights and on the west side on Saturday nights. This would increase exposure in both areas. He recommended that the businesses in these locations discuss this possibility.

Town Manager Hoffmann addressed the questions raised earlier by Ms. Gunnell, clarifying that the Commission must review permits, which would make it unlikely for a business to receive a permit for every night of the year. Special event permits carry a charge of \$100, and multiple dates may be grouped into one permit. Multiple sound meters are in use during events, and Police are trained in the use of these meters and are compensated for this training. Sound checks are done periodically to determine if any events have exceeded the limit. The Town may suspend or revoke special event permits if violations occur, but has not done so, as there have been no serious or ongoing violations. She concluded that it would be difficult to install more landscaping to buffer sound.

With regard to the possibility of single lane closure, it was confirmed that events have grown in popularity to a level that would make it very difficult for Police to enforce only one lane closure to contain the crowd, which regularly extends into the roadway.

**b. Noise Regulation Discussion (Bud Bentley, Assistant Town Manager,
and Connie Hoffmann, Town Manager)**

Mayor Sasser opened the floor to public comment.

Bill Vitollo stated that while many residents and businesses have said they wanted to continue the live music events, it would be difficult to move the events to other locations or indoors. He felt this would make it harder for businesses to succeed.

Steven DeLeon advised that while live music may be loud at the front of the stage, the sound meter readings he has taken are not typically unreasonable. He felt lowering the decibel level would make the events less successful.

Bill Ciani asserted that he is in favor of continuing live music at its present decibel level. He noted, however, that the events are concentrated in a small area, and recommended that they be moved among multiple locations to make the events more inclusive.

Mark Furth said it is more often Town residents than its business community that complain about music, and noted that members of his Citizens' Initiative Committee often say it is very loud. He reiterated his suggestion to move live music into the Dune Plaza.

Louis Marchellos, of Athena's restaurant and Fisherman's Pier Inc., stated that the decibel level of live music at his business has been lowered since the music was moved to the sidewalk. He noted that Police have checked the decibel level at his establishment and work to keep the crowd moving in the area.

Thomas Braga said he had formerly worked as a Police Officer in charge of live events, and pointed out that ordinances with the intent of controlling music and events have been harmful in other municipalities.

Cristie Furth thanked the business owners who have been willing to work with the residents to reach a solution, and suggested making a minor reduction in decibel level, which could resolve some of the issues.

Pamela Ulmer-Broughton said the sound levels and public safety appeared to be monitored by both checking sound levels and a Police presence.

Ron Piersante stated he enjoys the music he hears on weekend nights, which typically ends by 10:30 p.m. and was not a problem for him. He asked if the decibel level allowed in Lauderdale-By-The-Sea was louder than what is allowed in other communities.

Vice Mayor Vincent commented that entertainment in the commercial district only occurs on a limited number of hours on Friday and Saturday nights, and pointed out that the events have had a positive effect on the Town.

Town Manager Hoffmann explained that the decibel levels allowed in Lauderdale-By-The-Sea are different before and after 10 p.m., and noted that the sound meters measure ambient noise as well as bass. Before 10 p.m., the commercial area's decibel limit for ambient noise is 90, which is much louder than allowed in nearby cities. After 10 p.m. the decibel limit is 75. Based on decibel readings taken recently, she concluded that it would be easy to lower the decibel level with no dramatic effect.

Commissioner Brown agreed that the Town could experiment with a lower decibel level that is more in keeping with the levels allowed by other towns. He pointed out that he does not typically receive complaints from residents, but often hears comments that the music is audible to them.

Commissioner Sokolow noted that perception of sound is objective, and that most of the lower decibel levels required in other towns did not include entertainment districts and were not intended to measure music. He cautioned against any regulation that might affect the overall perception of the Town.

Commissioner Dodd stated that there is always a Police presence in the Downtown area to enforce public safety, and cited examples of restaurants and businesses that successfully featured indoor music in the past. He disagreed with Staff's position in the backup materials, which stated there should be no exemptions to the Code governing decibel levels. He concluded that while the noise was not presently excessive, a reduction to roughly 80-85 decibels would not be unreasonable.

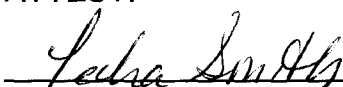
Mayor Sasser proposed a test in which the decibel level is lowered to the 60-65 range on one to two weekends so the Town can determine whether this change has a significant effect. Town Manager Hoffmann agreed that readings could be taken on a trial basis and from different distances, with the intent of reaching a conclusion after this trial is completed. The Commissioners could also meet Downtown so they could hear the sound for themselves. The Mayor also thanked the members of the public in attendance for their input.

With no further business before the Commission, the workshop was adjourned at 7:59 p.m.



Mayor Scot Sasser

ATTEST:



Deputy Town Clerk Tedra Smith

5/27/14

Date



Item No. _____

Agenda Item Memorandum

Administration

Department

Bud Bentley & Connie Hoffmann

Assistant Town Manager & Town Manager

COMMISSION MEETING DATE -	Deadline to Town Clerk
☒ April 7, 2014 –Workshop Meeting 6:00 PM	

***Subject to Change**

- | | | | |
|---------------------------------------|---|--|---------------------------------------|
| ☐ Presentation | ☐ Reports | ☐ Consent | ☐ Ordinance |
| ☐ Resolution | ☐ Quasi-Judicial | ☒ Old Business | ☐ New Business |

☐ **FY2014 – PART OF THE STRATEGIC PLAN:**

SUBJECT TITLE: Noise Regulation Discussion

EXPLANATION:

History

In 2009, the Town's noise ordinance was amended to remove subjective language and replace it with a decibel-based standard. This was important because decibel-based standards are objective and measurable and they are more likely to survive a legal challenge than subjective standards that depend on an individual's assessment of sound level. The Commission minutes and some of the background information, decibel readings, and staff recommendations at the time (this preceded the current administration) are attached in **Exhibit 1** in case the Commission wishes to review that information. The original ordinance proposed by the Town Attorney and staff recommended noise limits measured at the property line, with the 200 ft measurement only applying to special events.

After first reading, the Commission held a workshop meeting in the downtown during special events, at which they measured the sound levels at various distances from the sources of the sound. As adopted, the Town's currently effective noise limits are measured from 200 ft away, and the daytime commercial limit was increased substantially, as shown below:

Complaints

During the past several years, we have received complaints from residents concerning noise levels emanating from the Friday and Saturday evening music events. Those complaints caused us to purchase better decibel-reading machines, have officers trained in their use, and conduct decibel studies which we shared with the Commission. The readings showed that the music was within the decibel limits set by the Town code.

Last year, we received a petition from residents of Oriana Condominium opining that the allowed noise level in the commercial district is too loud in the adjacent residential area, not only during the Friday and Saturday night events but at other times during the week, and asking the Commission to cut the allowed decibel levels by 50%. The Commission discussed this issue at the August 20, 2013 meeting. A copy of the agenda item is attached (**Exhibit 2**). At this time, the Commission asked that we conduct additional research and schedule this topic for a workshop at later date.

April 7, 2014 Workshop

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Current Code in Comparison to Other Cities

The Town's current noise ordinance allows noise in commercial areas to be as high as 90 dBA/95 DBC from 7 a.m. to 10 p.m. and 60 dBA/65 DBC from 10 p.m. to 7 a.m. measured at a point 200 feet beyond the property line where sound is generated. (DBC refers to the low bass sounds.)

We surveyed several local communities regarding their noise limits and the results of which are shown in Table 1 on the next page. The survey results show that the Town's allowable noise levels in residential areas are similar to other Broward communities, but our noise limits in commercial areas are significantly higher than those in all cities surveyed and even higher than the limits in Fort Lauderdale's entertainment district.

Table 1 – Noise Standards of Local Communities.

Municipality	Before 10 PM dBA	After 10 PM dBA	Special Events Exemption
Lauderdale-By-The-Sea			No
Residential	60 dBA or 65 dBC ⁽¹⁾	55dBA or 65 dBC	
Commercial	90 dBA or 95 dBC	75 dBA or 75 dBC	
Dania Beach			Yes
Commercial	65	60	
Residential	60	55	
Davie			Yes
Office/Business	60	60	
Residential	55 (until 7pm)	50 (after 7pm)	
Lighthouse Point			Yes
Commercial	65	60	
Residential	60	55	
Fort Lauderdale			
Residential Districts			
Outdoor	60	50	
Indoor	50	35	
Commercial District	65	55	
Entertainment District	85 (to 1 am)	70 (1 to 3 am)	
Pompano Beach			Yes
Commercial	65	65	
Residential	55	50	
Wilton Manors ⁽²⁾			No
Commercial	65/75	65/75	
Residential	55/65	55/65	

⁽¹⁾DBC captures the sound of a low, thumping bass.

⁽²⁾Wilton Manors measures max L50 sound/Lmax Sound Levels

It should be noted that most cities measure noise at the property line, while our code provides that noise is to be measured 200 feet from the property line. Most municipalities, except for Fort Lauderdale which has an Entertainment district and Wilton Manors, exempt special events from their noise regulations. However, most of those cities do not have regular, weekly outdoor music events as we do.

Recent Sound Level Measurements in Context of Common Noises

To assist the Commission in their upcoming deliberation of noise restrictions, we asked BSO to measure the noise levels at two separate times on both Friday, February 7th and Saturday, February 8th. The results are included in **Exhibits 3 & 4**, which show the location the reading was taken, the decibel level and that the noise levels on that

April 7, 2014 Workshop

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particular weekend did not exceed the Town's standards. They took the readings at various distances from the outdoor music stages to give the Commission some idea of noise at different locations. The readings at all times show the noise in the downtown area in compliance with the Town's code, but usually in excess of what other cities allow.

Exhibit 5 is a table that identifies common noises and their associated decibel levels.

Staff Input

Staff sees no reason why Lauderdale-By-The-Sea should allow higher decibel readings than other communities, particularly since we are a small town that prides itself on having a village atmosphere. We know that live music is a popular aspect of the Town and wish to see it continue, but question why it has to be so loud.

We also think that the distance from which sound is measured should not be so far away. We are clearly far outside other cities' practices in that regard. We think the Commission should consider measuring from the property line for indoor music, and closer to the source of sound if the source is located in a public park, plaza or right of way. There is the option for event sponsors to utilize multiple speakers located at different locales to broadcast the sound to a wider area without the necessity of blasting the sound from one source to cover a long distance.

We see no need to provide an exemption in the case of special events as the Town has no large venues that would justify such action. Although we call the Friday and Saturday night outdoor music special events, we not believe that they need to have such an exemption.

We feel a provision should be added to the Special Event application that requires the applicant to sign an acknowledgement that they are aware of the noise ordinance, and outline the consequences if they violate it (e.g. suspension after two violations, revocation after three violations).

EXHIBITS:

- 1 – 2009 Noise Ordinance Discussion & Backup**
- 2 – August 20, 2013 Commission Meeting Agenda Item**
- 3 – February 7, 2014 Noise Reading**
- 4 – February 8, 2014 Noise Reading**
- 5 – Table Identifying Common Decibel Levels**

Reviewed by Town Attorney

☐ Yes ☐ No

File: T:\0 Agenda\4-7-14 WORKSHOP\Noise Ordinanc\4-7-14 AM SOUND REGULATIONS.docx

EXHIBIT 1

2009 REPORT AND COMMISSION ACTION

EXHIBIT 1

2009 RESEARCH TABLE - NOISE REGULATIONS

GOVERNMENT	COMMERCIAL	RESIDENTIAL	NOTES/COMMENTS
LBTS	Between 7 AM and 10 PM: 75 DBA / 80 DBC Between 10 PM and 7 AM: 75 DBA / 75 DBC	Between 7 AM and 10 PM: 60 DBA / 65 DBC Between 10 PM and 7 AM: 55 DBA / 65 DBC	
SARASOTA	Between 7:00 a.m. and 11:00 p.m.: 75 dBA, 80 dBC or has a 10 dB or greater difference between the dBA and dBC sound levels Between 11:00 p.m. and 7:00 a.m.: 75 dBA, 75 dBC or has a 10 dB or greater difference between the dBA and dBC sound levels.	Between 7:00 a.m. and 11:00 p.m.: 75 dBA, 80 dBC or has a 10 dB or greater difference between the dBA and dBC sound levels Between 11:00 p.m. and 7:00 a.m.: 75 dBA, 75 dBC or has a 10 dB or greater difference between the dBA and dBC sound levels.	DBA and DBC Their ordinance applies same maximum standard for residential and commercial; corresponds to standard used for LBTS Commercial Zone Their standard also provides for a maximum “10 dB or greater difference between the dBA and dBC sound levels” as well – which I did not find in other codes. Other codes apply maximum DBA and DBC only.

EXHIBIT 1

2009 RESEARCH TABLE - NOISE REGULATIONS

GOVERNMENT	COMMERCIAL	RESIDENTIAL	NOTES/COMMENTS
SARASOTA CO.	Between 7:00 a.m. to 10:00 p.m.: 75 DBA; 85 DBC Between 10:00 p.m. to 7:00 a.m.: 70 DBA; 80 DBC	Between 7:00 a.m. to 10:00 p.m.: 65 DBA; 75 DBC Between 10:00 p.m. to 7:00 a.m.: 55 DBA; 65 DBC	DBA and DBC Residential maximum is higher than LBTS for daytime hours; allows greater DBC in commercial, and allows slightly less DBA in commercial during night hours than in LBTS
ORLANDO	(All times) 75 DBA/80 DBC	(All times) 65 DBA/70 DBA	DBA and DBC Commercial allows higher DBC than LBTS; Residential allows higher levels than LBTS

EXHIBIT 1

2009 RESEARCH TABLE - NOISE REGULATIONS

GOVERNMENT	COMMERCIAL	RESIDENTIAL	NOTES/COMMENTS
BRADENTON	7:00 a.m. and 10:00 p.m.: 75 dBA, 80 dBC or has a 10 dB or greater difference between the dBA and dBC sound levels. 7:00 p.m. and 7:00 a.m.: 75 dBA, 75 dBC or has a 10 dB or greater difference between the dBA and dBC sound levels.	7:00 a.m. and 10:00 p.m.: 75 dBA, 80 dBC or has a 10 dB or greater difference between the dBA and dBC sound levels. 7:00 p.m. and 7:00 a.m.: 75 dBA, 75 dBC or has a 10 dB or greater difference between the dBA and dBC sound levels.	DBA and DBC Same maximum standard for residential and commercial; corresponds to standard for LBTS Commercial Zone (See Sarasota above)
TAMPA	“Central Business District, the Ybor City Historic District and the Channel District.” a. Eighty-five (85) dBA or eight-seven (87) dBC between the hours of 6:00 p.m. and 3:00 a.m. b. Sixty-five (65) dBA or seventy-five (75) dBC between the hours of 3:00 a.m. and 6:00 p.m	“All other commercial and residential areas:” a. Sixty (60) dBA or sixty-five (65) dBC between the hours of 7:00 a.m. and 10:00 p.m. b. Fifty-five (55) dBA or sixty-five (65) dBC between the hours of 10:00 p.m. and 7:00 a.m.	DBA and DBC Tampa allows permissive maximum levels for intense / tourist commercial. Standard for residential and light commercial areas corresponds with LBTS residential standard.

EXHIBIT 1

2009 RESEARCH TABLE - NOISE REGULATIONS

GOVERNMENT	COMMERCIAL	RESIDENTIAL	NOTES/COMMENTS
FT MYERS	7:00 a.m. to 7:00 p.m.: 75 DBA 7:00 p.m. to 7:00 a.m.: 70 DBA	7:00 a.m. to 7:00 p.m. 75 DBA 7:00 p.m. to 11:00 p.m.: 65 DBA 11:00 p.m. to 7:00 a.m. 60 DBA	DBA ONLY Fort Myers' commercial limitation for night time is 70 DBA, where ours is 75 DBA. LBTS residential standard is more restrictive
PINECREST	Sound level for commercial zone properties adjoining other commercial zone properties: 75 DBA	Between the hours of 7:00 a.m. and 11:00 p.m.: 65 DBA Between the hours of 11:00 p.m. and 7:00 a.m.: 60 DBA	DBA ONLY LBTS residential maximum is more restrictive; Consistent with regard to commercial properties adjoining other commercial; they are more restrictive for commercial properties if they adjoin residential

Exhibit 1

2009

NOISE DECIBEL READINGS

Exhibit 1

2009

Noise Decibel Findings

Sunny Clear

<u>Date</u>	<u>Event</u>	<u>Time</u>	<u>Direction</u>	<u>A Scale at 100 / 200 ft</u>	<u>C Scale at 100 / 200 ft</u>	<u>Decibel w/o Music 100 ft</u>
Friday May 15th Special Event	Village Grill's Jazz on the square	7 to 8 p.m.	North	83.2 / 70.2	89.4 / 76.3	0
			South	80.8 / 68.5	85.9 / 74.4	67.1
			East	74.4 / 73.5	0	69.3
			West	72.1 / 69.8	0	0
Saturday May 16th Special Event	Athena's Music by the sea	7 to 8 p.m.	North	0 / 65.8	0	0
			South	0 / 65.3	0	0
			East	81.2 / 78.6	92.0 /	67.8
			West	81.9 / 77.0	92.5 /	69
				<u>A Scale at PL</u>	<u>C Scale at PL</u>	<u>no music PL</u>
Thursday May 21st	Village Grill's interior music	10 to 11 p.m.	North	0	0	0
			South	78.3	85.5	74.4
			East	0	0	0
			West	80.8	90.4	76.8
		11 to 12 p.m.	North	0	0	0
			South	77.5	83.2	73.6
			East	0	0	0
			West	81.1	89.8	76.5
Thursday May 21st	Aruba's interior music	10 to 11 p.m.	North	0	0	0
			South	80.4	93	71.5
			East	0	0	0
			West	81.5	93.5	71.8
		11 to 12 p.m.	North	0	0	0
			South	81.5	94.7	70.8
			East	0	0	0
			West	84.4	95.4	71.6
Thursday May 21st	101 Ocean interior music	No music on Thursday nights				

Exhibit 1

2009

Rainy / Overcast

				<u>A Scale at PL</u>	<u>C Scale at PL</u>	<u>no music PL</u>
Friday May 22nd	Village Grill's interior music	10 to 11 p.m.	North	0	0	0
			South	81.2	90.6	76.8
			East	0	0	0
			West	89.8	97.4	78.3
		11 to 12 p.m.	North	0	0	0
			South	79.9	88.6	75.4
			East	0	0	0
			West	89.1	94.7	77.8
Friday May 22nd	101 Ocean interior music	10 to 11 p.m.	North	0	0	0
			South	77.6	86.4	74.9
			East	79.1	88.7	75.1
			West	0	0	0
		11 to 12 p.m.	North	0	0	0
			South	78.9	86.9	74.4
			East	80.3	91.2	75.7
			West	0	0	0
Friday May 22nd	Aruba's interior music	10 to 11 p.m.	North	0	0	0
			South	80.3	90.6	71.4
			East	0	0	0
			West	81.7	91.2	73
		11 to 12 p.m.	North	0	0	0
			South	80	91.5	71.3
			East	0	0	0
			West	81.9	92.2	72.1

2009 Exhibit 1

<u>Rainy / Overcast</u>				<u>A Scale at PL</u>	<u>C Scale at PL</u>	<u>no music PL</u>
Thursday May 28th	Village Grill's interior music	12 to 1 a.m.	North	57.6	0	59.1
			South	66.9	71.1	0
			East	0	0	0
			West	85.3	91.8	66.5
Thursday May 28th	Aruba's interior music	12 to 1 a.m.	North	0	0	0
			South	79.3	89	66.9
			East	0	0	0
			West	81	89.4	69.9

the requirement for a permit stated that in those instances where an abutting property owner planted trees or other landscaping materials within the swale area, they would be responsible for damage caused by the roots of that material.

Commissioner Clotley believed the issue of the Town putting in the trees on Seagrape and installing irrigation was unfortunate but she did not believe the Town could afford to do the same in every swale in Town.

Vice Mayor McIntee made a motion to approve Ordinance 2009-10 on second reading. Commissioner Silverstone seconded the motion. The motion carried 5-0.

- b. Ordinance 2009-12: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 17 "STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES," ARTICLE VI "SIDEWALK CAFÉS," SECTION 17-89 "REQUIREMENTS OF A SIDEWALK CAFÉ PERMIT;" PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE Approved 1st reading July 14, 2009

Attorney Trevarthen read Ordinance 2009-12 by title.

Attorney Trevarthen pointed out that the word "removable" was removed. She added that the word "removable" should have been struck through.

Mayor Minnet questioned whether sidewalk cafe applied to anyone's sidewalk whether it was a private building on private land or public. Attorney White said there was no distinction in the Code between a public or privately owned sidewalk.

Mayor Minnet opened the meeting for public comments. With no one wishing to speak, Mayor Minnet closed the public comment portion of the meeting.

Commissioner Clotley made a motion to adopt Ordinance 2009-12 on second reading. Commissioner Dodd seconded the motion. The motion carried 5-0.

- c. Ordinance 2009-14: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 13 "NOISE" OF THE CODE OF ORDINANCES TO PROVIDE FOR AMENDED NOISE REGULATIONS; AMENDING CHAPTER 17 "STREETS, SIDEWALKS AND OTHER PUBLIC PLACES," ARTICLE VIII "SPECIAL EVENTS" TO AMEND THE REGULATIONS OF SPECIAL EVENT PERMITS TO PROVIDE GROUNDS FOR DENIAL OF A SPECIAL EVENT PERMIT FOR VIOLATION OF NOISE AND OTHER TOWN STANDARDS; PROVIDING FOR SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE Approved 1st reading April 14, 2009 Deferred at the June 9, 2009 Commission meeting by Vice Mayor McIntee

Attorney Trevarthen read Ordinance 2009-14 by title. Mayor Minnet opened the meeting for public comments.

Guy Contrada stated that he took a decibel reading in Jarvis Hall prior to the beginning of the meeting and it registered at 75. He stated that if someone was to stand at the property line at Aruba between the hours of 7:00 a.m. and 10:00 p.m. it would be over 75 decibels. He suggested that perhaps the hours could be changed to 7:00 a.m. to 12:00 p.m. and from 12:00 p.m. to 10:00 p.m. Mr. Contrada agreed that he would not want to be at work at 7:00 a.m. with music at 75 decibels. He believed the decibel should be changed to 85 or 90 decibels as his dining room, with no music and general conversation was 80 decibels. Mr. Contrada believed the decibels and the times should be looked at. He said no business owner wanted to violate code and music was important to the Town.

Diane Boutin believed music was important to the Town and felt that a reasonable standard needed to be set for special events.

Joe Brennan agreed that there should be an acceptable level for businesses and residents.

Bill Patello believed that people wanted to hear music.

Louis Marchelos believed the problem with the ordinance was enforcement.

Barbara Cole stated that no one liked the ordinance and believed it should be passed over.

Ron Piersante wanted to know who came up with a decibel of 75 and how many people actually complained.

Rosallie Malkoon wanted to know if the Commission would act according to what the people said.

Bob Fleishman never heard anyone say they did not like to hear music.

With no one wishing to speak, Mayor Minnet closed the public comment portion of the meeting.

Commissioner Silverstone stated that this ordinance had nothing to do with businesses. He said that the current ordinance did not work and this ordinance was to change the old ordinance and make it work. Commissioner Silverstone believed something was obviously wrong and the Commission should up the decibel points between 7:00 a.m. and 10:00 p.m. and change the hours from 10:00 p.m. to 7:00 a.m.

Commissioner Silverstone made a motion to change the decibel points from 75 to 85 and, on line 336, lower the decibel point from 75 to between 60 and 75. Vice Mayor McIntee seconded the motion.

Town Commission Regular Meeting Minutes
July 28, 2009

Commissioner Dodd believed the wrong version of the Ordinance was in the back up as the version that passed first reading included a fireworks clause.

Manager Colon referred to line 105. She believed the Commission said the unpermitted explosion of fireworks, skyrockets, roman candles. She added that the subsection would not prohibit organized fireworks at the July 4th event. Manager Colon explained that was what staff understood. She added that if the Ordinance prohibited those then the Town would never have fireworks. Manager Colon said if staff misunderstood she apologized.

Commissioner Dodd agreed that was the version that passed on July 9, 2009 and that clause was not in the current version and the map should have been there.

Commissioner Dodd said he requested a specific Zoning Officer to be present at the meeting and received a response back that stated that staff was directed by the Town Manager and not the Commission and that any assistance needed would be provided by the Town Manager. Commissioner Dodd wanted to know whether special events were at their noisiest time between 9:00 and 10:00 p.m. Assistant Town Manager believed it was possible. Commissioner Dodd wanted to know how many readings were done during that time period. Assistant Town Manager stated that additional readings were done. Commissioner Dodd wanted to delay the ordinance to allow readings when the noise was at its loudest.

Manager Colon stated that the ordinance did have a provision for special events. She added that BSO had informed her that there were no noise issues the past 2 weekends. Manager Colon said if the Commission wanted Code Enforcement to go out at night and confirm what BSO had said they would do that with direction from the Commission.

Commissioner Clotley believed it was agreed that the measurement would be taken at 200 feet. She agreed the decibel and the hours could be changed. Commissioner Clotley did not believe anyone would want a decibel measurement of 90 at 200 feet from edge of their property. She asked the Town Attorney to verify how she came up with the decibel readings.

Attorney Trevarthen stated that the levels were in line with what other communities had and that was the basis of the starting point and the basis for the workshop. She said line 258 stated it "was" 200 feet for special event, and the language previously quoted "if not" a special event.

Commissioner Clotley stated that the complaint was not as the door opened to let people in and out; the complaint was continuous noise.

Vice Mayor McIntee said he would support an 85 decibel and if it was too high it could be lowered and if too low it could be made higher.

Town Commission Regular Meeting Minutes July 28, 2009

Mayor Minnet said that if all the businesses were here to comply why the Commission wasted their time with an ordinance. She was never in favor of the ordinance and thanked the business owners for everything they do for the Town.

Commissioner Silverstone stated that this ordinance was before the Commission to make the existing ordinance work.

Commissioner Dodd agreed with Commissioner Silverstone but believed staff was instructed to get values. He said they were all there when the highest reading was taken at 200 feet and was 95 decibels. He said everyone asked whether the businesses were going to turn the music up.

Commissioner Silverstone suggested a friendly amendment to make the decibel level higher. Commissioner Dodd proposed a friendly amendment to change to a 90 dba and 95 dbc as a reasonable compromise. Commissioner Clotney asked to include the measurement at 200 feet to be taken after 10:00 p.m.

Assistant Town Manager Olinzock stated that sometimes a reading could not be made at 200 feet as there was another building in the way. Mayor Minnet asked in that case, why it would affect the residents.

Commissioner Clotney added to the motion that they measure at the closest point beyond 200 feet.

Attorney Trevarthen clarified that the friendly amendment to the motion was to change on line 328, 75 dba or 80 dbc to 90 dba or 95 dbc. She added that the original motion was to change on line 333, "75 dba or 75 dbc" for overnight to "60 dba or 75 dbc". Attorney Trevarthen stated that the 3rd change was where it was impossible to make a noise reading at 200 feet the reading should be taken at the nearest point beyond 200 feet.

Commissioner Silverstone stated that on line 333 the dba should remain at 75 dba and 75 dbc. Vice Mayor McIntee agreed. Attorney Trevarthen clarified that there was no change at line 336.

Attorney Trevarthen questioned the version in the backup. Commissioner Dodd said it should have been the June 9th version which included the ability to legally have fireworks on July 4th. He added that the Commission had not voted on steam whistles.

Commissioner Dodd made a motion to remove the reference to steam engines in line 86 and remove steam whistles, steam engines needing a muffler, no noise allowed on any street adjacent to a school, institution of learning or hospital in lines 90 and 91. Attorney Trevarthen asked whether that entire paragraph was to be deleted and also lines 83 and 84 for steam whistles. Commissioner Dodd agreed.

Town Commission Regular Meeting Minutes
July 28, 2009

Mayor Minnet pointed out that that line says "except to give notice of time to begin or stop work as a warning of danger". She believed that was what that was in reference to. Commissioner Dodd disagreed. Vice Mayor McIntee believed the fire siren alerts for tornadoes were electronic devices and emergency devices.

Attorney Trevarthen pointed out that this was a list of prohibited noises and by removing it would open a broader group of noises that would be permitted. She added that the fire alarm would be fine.

Attorney Trevarthen reviewed the changes:

- 1) Deleting lines 83 to 84.
- 2) Deleting the word "steam engine" on line 86.
- 3) Deleting lines 90 to 93.
- 4) Revised language on lines 104 to 105 to include "The unpermitted explosion of firecrackers, skyrockets, Roman Candles, pinwheels or any other form of fireworks or the discharge of any firearms. This subsection shall not prohibit organized fireworks displays conducted in accordance with a special event permit issued pursuant to Article VIII of Chapter 17 of the Code".
- 5) On line 331 (333 in April 14th version) change dba to 90 and change dbc to 95
- 6) No change in line 333 (339 in April 14th version)
- 7) Measure at 200 feet or the nearest point to 200 feet.

The motion carried 4-1. Mayor Minnet voted no.

- d. Ordinance 2009-25: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE SEA AMENDING CHAPTER 20, ARTICLE II, SECTION 20-19 PROVIDING FOR RATES AND CHARGES OF TOWN SANITARY SEWAGE DISPOSAL SERVICE; PROVIDING FOR CODIFICATION AS ARTICLE II OF CHAPTER 20 OF THE CODE OF ORDINANCES, SEVERABILITY, AND AN EFFECTIVE DATE
Approved 1st reading July 14, 2009

Attorney Trevarthen read Ordinance 2009-25 by title.

Vice Mayor McIntee made a point of order to extend the meeting past 11:00 p.m. Commissioner Clotey made a motion to extend the meeting to 11:20 p.m. Commissioner Dodd offered a friendly amendment to take Ordinance 2009-25 and Consent Agenda item 12(a). Vice Mayor McIntee wanted to complete the agenda. Commissioner Dodd stated that his motion was to take Ordinance 2009-25 and Consent Item 12(a) and then recess the meeting. The motion carried 3-2. Vice Mayor McIntee and Commissioner Silverstone voted no.

Mayor Minnet opened the meeting for public comments. With no one wishing to speak, Mayor Minnet closed the public comment portion of the meeting. Commissioner Silverstone made a motion to adopt Ordinance 2009-25 on second



LAUDERDALE • BY • THE • SEA

Exhibit 2

Agenda Item Memorandum

Development Services

Department

Linda Connors

Town Planner

COMMISSION MEETING DATE – August 20, 2013

- | | | | |
|---------------------------------------|---|---------------------------------------|---|
| ☐ Presentation | ☐ Reports | ☐ Consent | ☐ Ordinance |
| ☐ Resolution | ☐ Quasi-Judicial | ☐ Old Business | ☒ New Business |

SUBJECT TITLE: Oriana Noise Petition.

EXPLANATION: At the April 2, 2013 Commission Meeting, residents of the Oriana Master Association presented a petition (**Exhibit 1**) to the Town Commission asking the Town to consider amending the Town's Noise Ordinance. The residents brought this request before the Commission because they feel their peaceful and quiet enjoyment of their property is disrupted by special events on Commercial Boulevard. We note for your information that the petition is factually incorrect in its statement that a "variance" was approved and that there was not a "proper hearing" before the Town Commission. As the Commission is aware there was no "variance" as that has a specific legal meaning and does not apply to a special event approval and that the approval of these special event applications is always included on the Commission's published agenda. What they are referring to is the Commission's approval of extending the ending time of the regular music events by half an hour to 10:30 pm.

Section 13-6 of the Town's Code of Ordinances is attached (**Exhibit 2**). Staff compared the Town's current noise ordinance and compared it to the noise ordinances for Davie, Lighthouse Point, Pompano Beach, Wilton Manors, Dania Beach and Fort Lauderdale. A summary of the decibel levels allowed by each city is shown in **Table 1**. We found that the Town's sound level limit is 25 dba higher than surveyed communities before 10 p.m. and at least 10 dba higher after 10 pm. What is not clear from the codes of the surveyed cities is if Special Events are exempted or have a different noise standard. We are researching that point and will provide more information prior to the Commission meeting.

Table 1

	Before 10 PM dBA	After 10 PM dBA
Lauderdale-By-The-Sea	90	75
Davie	60	60
Lighthouse Point	65	60
Pompano Beach	65	65
Wilton Manors	65	65
Dania Beach	65	60
Fort Lauderdale	65	55

Agenda Item Memorandum

Subject: Oriana Noise Petition

Exhibit 2 Page | 2

In March 2013, before receiving the Oriana's petition, as a result of other complaints registered about the noise from downtown businesses, BSO took noise measurements to determine the decibel levels of music during the Town's weekly downtown special events, the results of which are shown in **Table 2**. BSO found no violations of the Town's code in the readings during the weekends in March. We will advise the Commission whether these measured levels would have violated other cities' codes once we determine whether they have different standards for special events.

Table 2

Date	Time	Sound Level - Limit dBA	Sound Level - Limit dBA
Location:		Parking Lot at 2 Commercial Blvd	South Alley Between El Mar Drive & Ocean Drive
March 15	Before 10:30 pm	Constant 78 dBA	Constant 68 dBA
	After 10:30 pm	Constant 68 dBA	Constant 64 dBA
March 15	Before 10:30 pm	Constant 78 dBA	Constant 68 dBA
	After 10:30 pm	Constant 68 dBA	Constant 64 dBA
March 22	Before 6:00 pm	74.7 dBA	63.5 dBA
	Before 10:30 pm	Constant 72 dBA/82 dBC	Constant 68 dBA/82 dBC
	After 10:30 pm	Constant 65 dBA/74 dBC	Constant 55 dBA/68 dBC
March 23	Before 10:30 pm	Constant 72 dBA/82 dBC	Constant 65 dBA/76 dBC
	After 10:30 pm	Constant 64 dBA/74 dBC	Constant 59 dBA/71 dBC

The Oriana petition requests that the allowable decibel levels be reduced to 37.5 dba from 7 pm onward. We think those levels are far too low for a tourist center. But we do feel it makes sense to bring our allowable noise levels more in line with other tourism-based cities, taking into account whether there are different standards for special event.

In terms of the noise ordinance, staff questions whether events that are held on a frequent, recurring basis should be characterized as special events. For example, it is easy to argue that an event that is held once a year and draws large crowds (e.g. Fourth of July, or News Years' Eve) should have a different noise standard.

RECOMMENDATION: It is recommended that the Commission provide direction on how they wish to proceed.

EXHIBITS: 1 – Oriana Petition
2 – Section 13-6 Town Code

Reviewed by Town Attorney

☒ Yes ☐ No

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Revd 4/2/13
at Commission Mtg
by V. Castello

PETITION FOR CONSIDERATION
BEFORE THE CITY COMMISSION OF LAUDERDALE BY THE SEA

WHEREAS, the owners and residents ("Owners/Residents") with an interest in the Oriana at Lauderdale by the Sea Master Association, Inc. ("Association"), by and through its representatives, wish to be heard before the City Commission ("Commission") of the City of Lauderdale By The Sea ("City");

WHEREAS, Owners/Residents reside in or make their residences available to parties who occupy units ("Units") within the Association, a short distance from the commercial area at the east end of Commercial Boulevard ("Commercial Area");

WHEREAS, Owners/Residents appreciate the commercial and financial benefits the presence of the Commercial Area provides to the City;

WHEREAS; Owners/Residents have experienced significant disruption in the Owner/Residents' peaceful and quiet enjoyment of property at the Association as a consequence of the manner in which several businesses within the Commercial Area have been permitted to operate by the City and desire to address such manner of operation with the City;

WHEREAS, the City unilaterally, and without a proper hearing before the City Commission, issued a variance allowing the hours of operation for live entertainment in the Commercial Area to be extended to 10:30 p.m. daily, the result of which is to create a nuisance and disturbance to the Owners/Residents;

WHEREAS, the Owners/Residents look to secure a compromise with the enterprises in the Commercial Area, so as to foster and maintain a vibrant Commercial Area, without unduly burdening the Owners/Residents;

WHEREAS, the sound emitted through the amplified performances is audible within the Units at the Association, behind impact resistant glass, with all doors and windows closed, at a noise level that is in violation of City Ordinance and has had an adverse affect of the Owners/Residents, including fostering adverse health, through sleep deprivation, resulting in inability to concentrate, irritability, etc.;

WHEREAS, the Owners/Residents implore the City to either (1) rescind the variance as to hours during which the existent Noise Ordinance may be disregarded, or (2) amend the existing Noise Ordinance under which the Commercial Area is regulated, to reduce by 50% the permissible noise emission after 7:00 p.m. and/or, additionally, to revise the hours of operation for businesses emitting noise so as to require the cessation of all noise emitted over ____ decibels through amplification by parties providing entertainment, to include musical performances after 10:30 p.m.

NOW THEREFORE, the Owners/Residents request the City address and approve the following:

1. A rescision of the variance to disallow performances of entertainment beyond the hours of 10:00 pm (Chapter 13-6 (c)(2), City Ordinance); or
2. A rescision of the variance to allow performances of entertainment with the amplification of the music from such performance regulated, as follows:
 - a. all amplification to conclude at 10:30 pm and the volume at which the entertainment is amplified be reduced by 50% (to be reduced to 37.5 dBA) after 7:00 p.m.

In support of this Petition, we present our signature and direction to the party carrying this petition to speak on our behalf, represent our interests and champion our cause.

Signature/ADDRESS	Print	Date
<i>[Signature]</i> 4318 #307	KURT THOSS	4-1-13
<i>[Signature]</i> 4316 #22	Nancy Siskert	4/1/13
John Bohm	FELIX BOHM	4/1/13
Kathy Miller	KATHY MILLER	4/1/13
Calvin Stein	SARAH E. STEIN	4/1/13
<i>[Signature]</i> 4316 #26	Paul Dierck	4/1/13
<i>[Signature]</i>	David Kimmell	4-1-13
<i>[Signature]</i>	DIANE KIMMELL	4-1-13
Jim A. Dineen	JAMES DINEEN	4/1/13
Phil 4320 #402	ARMANDO WILKINSON	4/1/13

1 Attachment, 39 KB

Please find enclosed a signed petition- Cari

- In support of this Petition, we present our signature and direction to the party carrying this petition to speak on our behalf, represent our interests and champion our cause.

37

1 Attachment 01 KB

- In support of this Petition, we present our signature and direction to the party carrying this petition to speak on our behalf, represent our interests and champion our cause.

[illegible]

- In support of this Petition, we present our signature and direction to the party carrying this petition to speak on our behalf, represent our interests and champion our cause.

Date _____

~~max~~ ~~Paul~~ / Soviet Jan 4/2/2013

1. A rescission of the variance to disallow performances of entertainment beyond the hours of 10:00 pm (Chapter 13-6 (c)(2), City Ordinance); or
2. A rescission of the variance to allow performances of entertainment with the amplification of the music from such performance regulated, as follows:
 - a. all amplification to conclude at 10:30 pm and the volume at which the entertainment is amplified be reduced by 50% (to be reduced to 37.5 dBA) after 7:00 p.m.

In support of this Petition, we present our signature and direction to the party carrying this petition to speak on our behalf, represent our interests and champion our cause.

Date _____

4316 Elm
Drive #202

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2. A recision of the variance to allow performances of entertainment with the amplification of the music from such performance regulated, as follows:
 - a. all amplification to conclude at 10:30 pm and the volume at which the entertainment is amplified be reduced by 50% (to be reduced to 37.5 dBA) after 7:00 p.m.

In support of this Petition, we present our signature and direction to the party carrying this petition to speak on our behalf, represent our interests and champion our cause.

Signature	Print	Date
<u>[Signature]</u>	<u>Elaine Gurnell</u>	<u>4-1-13</u>
<u>[Signature]</u>	<u>Taylor Gurnell</u>	<u>4-1-13</u>
<u>[Signature]</u>	<u>Sean Clymer</u>	<u>4-1-13</u>
<u>[Signature]</u>	<u>Susan [unclear]</u>	<u>4-1-13</u>
<u>[Signature]</u>	<u>Eve Herbert</u>	<u>4-1-13</u>
<u>_____</u>	<u>Samir Elshinawy</u>	<u>4-1-13</u>
<u>_____</u>	<u>Nadineh Badaan</u>	<u>4-1-13</u>
<u>_____</u>	<u>Hany Badaan</u>	<u>4-1-13</u>
<u>_____</u>	<u>Barbara Badaan</u>	<u>4-1-13</u>
<u>[Signature]</u>	<u>Lynn McAllister</u>	<u>4-1-13</u>
<u>[Signature]</u>	<u>Caroline Gurnell</u>	<u>4-1-13</u>
<u>[Signature]</u>	<u>William Gurnell</u>	<u>4-1-13</u>
<u>_____</u>	<u>_____</u>	<u>_____</u>
<u>_____</u>	<u>_____</u>	<u>_____</u>
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<u>_____</u>	<u>_____</u>	<u>_____</u>

Town Commission Regular Meeting Minutes
April 2, 2013

property, so the Property Owners' Association of Lauderdale-By-The-Sea would hold an informational meeting on Thursday, April 4, 2013, at 7:00 p.m. at Jarvis Hall, with a meet and greet at 6:45 p.m. Both residents and visitors were welcome.

Kurt Thoss, president of the Oriana Condominium and Master Associations, wished to address the special event application item on the agenda. He represented the interests of the 34 residential property owners at the Oriana, stating their community appreciated the efforts of the Town and local businesses to provide the much-enjoyed "Music By The Sea" event. However, as one of the communities closest to the event, they hoped the event organizers would adhere to the Town's current noise ordinance, including the 10:00 p.m. shut down in lieu of the recent variance that extended the cutoff to 10:30 p.m. The extension created a disturbance to area residents, as the noise nuisance would increase by positioning the band closer to the Oriana as part of the Town's East Commercial Streetscape Project. Accordingly, they were submitting a signed petition to the Town to request: 1) a rescission of the variance that allowed performances beyond 10:00 p.m.; 2) as an alternative, implementing an overall 50 percent noise reduction after 7:00 p.m. in order to maintain the 10:30 p.m. variance noise cutoff time.

Mayor Minnet suggested Mr. Thoss give the Town Clerk the petition, which he did.

Bill Ciani mentioned a letter he sent to the Town Commission a few weeks prior concerning street closures. It was a different Town and there were numerous new businesses that spent a considerable sum to start up their business and had very steep rents. He pointed out, for instance, when half of Commercial Boulevard was closed off during the New Year's celebrations, the businesses in that area suffered. The same applied to the "Music By The Sea" event when, again, half of Commercial Boulevard would be closed, again they expected to do little or no business. Friday and Saturday nights were the times when these businesses made the bulk of their sales to thrive. He referred to the seven businesses he represented along that street, noting they submitted affidavits to the Commission on the negative effects the road closures were having on their businesses.

Rosa Michailiuk remarked that since the Bougainvillea Drive improvements began, her house had started cracking, and she wished this situation placed on the record. When the project workers were doing the pavers on her parking lot, she told them she had extra pavers and they could have a few if needed. However, she later returned home to find they took all 190 pavers from her backyard. She spoke with the project manager and they were to return the pavers to her, yet she was still waiting for them to be brought back. The wall on her property that had been in place for a over 35 years now had a crack and was now leaning due to the work on the project; the wall was standing straight prior to the project commencing. She asked Town staff to look into the matter.

Al Alvarez spoke on the issue of street closures, stating he already spoken to the Town Commission and staff about the closures placing a burden on businesses to the south side of Commercial Boulevard. They spoke with the owners of Athena's and devised a better plan that considered all business owners both south and north of Commercial

PART II - CODE OF ORDINANCES
Chapter 13-6 Noise limitations

Chapter 13 NOISE ^[1]

Sec. 13-6. Noise limitations.

- (a) *Prohibition of sound disturbance.* No person shall make, continue or cause to be made or continued any sound disturbances which violate the noise limitations, as defined in this section.
- (b) *Method of measurement generally.* For the purpose of measuring the volume, intensity and frequencies of sound, the measurement of sound shall be made with a sound level meter operating on the "A" and "C" weighting scale of any standard design and quality meeting the standards prescribed by the American National Standards Association (ANSI). The instruments shall be maintained in calibration and good working order. Measurements recorded shall be taken so as to provide a proper representation of the sound source. The microphone used during measurement shall be positioned so as not to create any unnatural enhancement or diminution of the measured sound. A wind-screen for the microphone shall be used when required. Traffic, aircraft, and other background sounds shall not be considered in taking measurements, except where such background sound interferes with the primary sound being measured.
 - (1) The slow meter response of the sound level meter shall be used in order to best determine that the average sound has not exceeded the standards set forth in subsections (c)(1) and (c)(2) below.
 - (2) The measurement shall be made at or beyond 200 feet beyond the real property line on which such sound is generated, or perceived, as appropriate, approximately five feet above ground.
 - (3) In the case of an elevated or directional sound source, compliance with the sound limits is to be maintained at any elevation at or beyond the real property line.
- (c) *Maximum sound levels.* The maximum dBA and dBC sound levels permitted on any property within the Town, shall be as follows:
 - (1) The following maximum limitations on sound disturbances shall apply within Zone A (commercial noise zone), as delineated in the map shown in Figure 13:
 - a. Between the hours of 7:00 a.m. and 10:00 p.m., no person shall make, cause, allow, or permit the operation of any continuous source of sound in such a manner as to create, when measured at or beyond the real property line from which the sound emanates, a sound level that exceeds 90 dBA or 95 dBC.
 - b. Between the hours of 10:00 p.m. and 7:00 a.m. the following morning, no person shall make, cause, allow, or permit the operation of any continuous source of sound in such a manner as to create, when measured at or beyond the real property line from which the sound emanates, a sound level that exceeds 75 dBA or 75 dBC.
 - (2) The following maximum limitations on sound disturbances shall apply within Zone B (residential noise zone), as delineated in the map shown in Figure 13:
 - a. Between the hours of 7:00 a.m. and 10:00 p.m., no person shall make, cause, allow, or permit the operation of any continuous source of sound in such a manner as to create, when measured at or beyond the real property line from which the sound emanates, a sound level that exceeds 60 dBA or 65 dBC.
 - b. Between the hours of 10:00 p.m. and 7:00 a.m. the following morning, no person shall make, cause, allow, or permit the operation of any continuous source of sound in such a manner as to create, when measured at or beyond the real property line from which the sound emanates, a sound level that exceeds 55 dBA or 65 dBC.

- (d) *Maximum sound level for activities duly authorized by special event permit.* An activity which has been granted a special event permit pursuant to article VIII of chapter 17 of the Code of Ordinances shall be subject to the maximum limitation on sound disturbances provided within this subsection. In connection with the permitted special event, no person shall make, cause, allow, or permit the operation of any continuous source of sound in such a manner as to create, when measured at or beyond 200 feet from the source from which the sound emanates, a sound level that exceeds the dBA or dBC standard in [subsection] (c) applicable to the point of measurement and the time of measurement.

(Ord. No. 2009-14, § 2, 7-28-09)

TOWN OF LAUDERDALE BY THE SEA Zoning Map

Legend

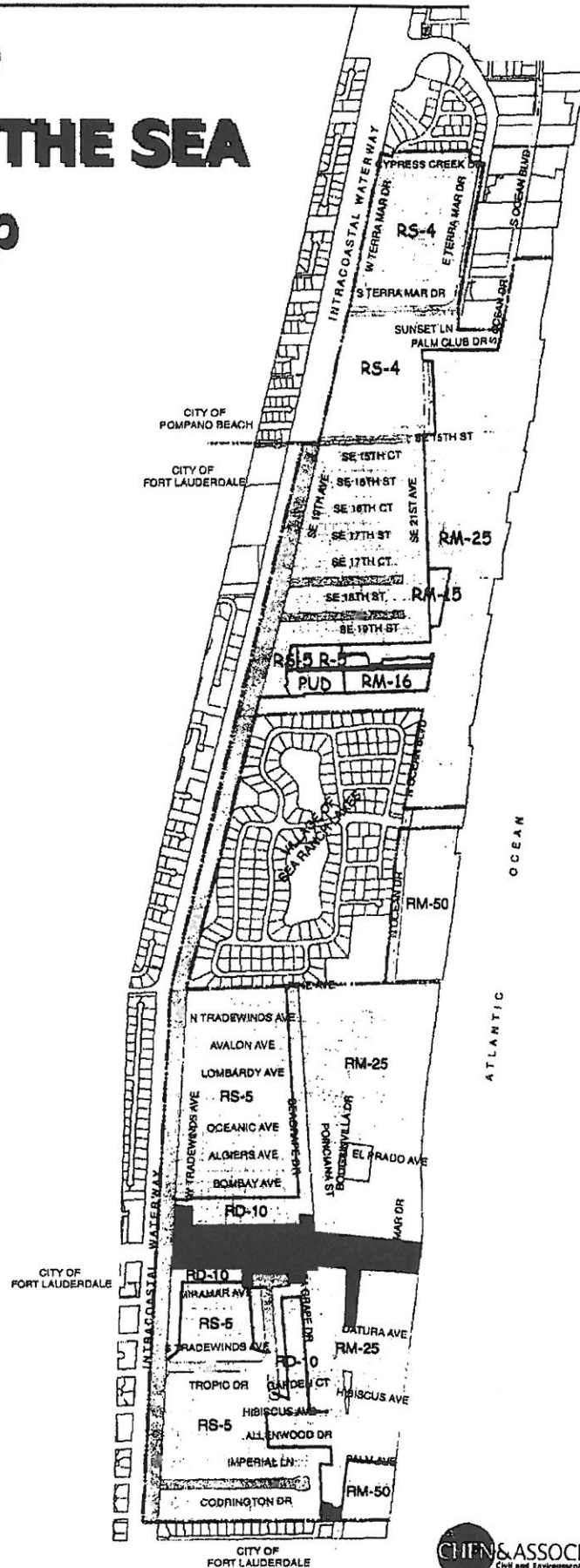
Boundary Line

--- Town Boundary

— Zoning District Line

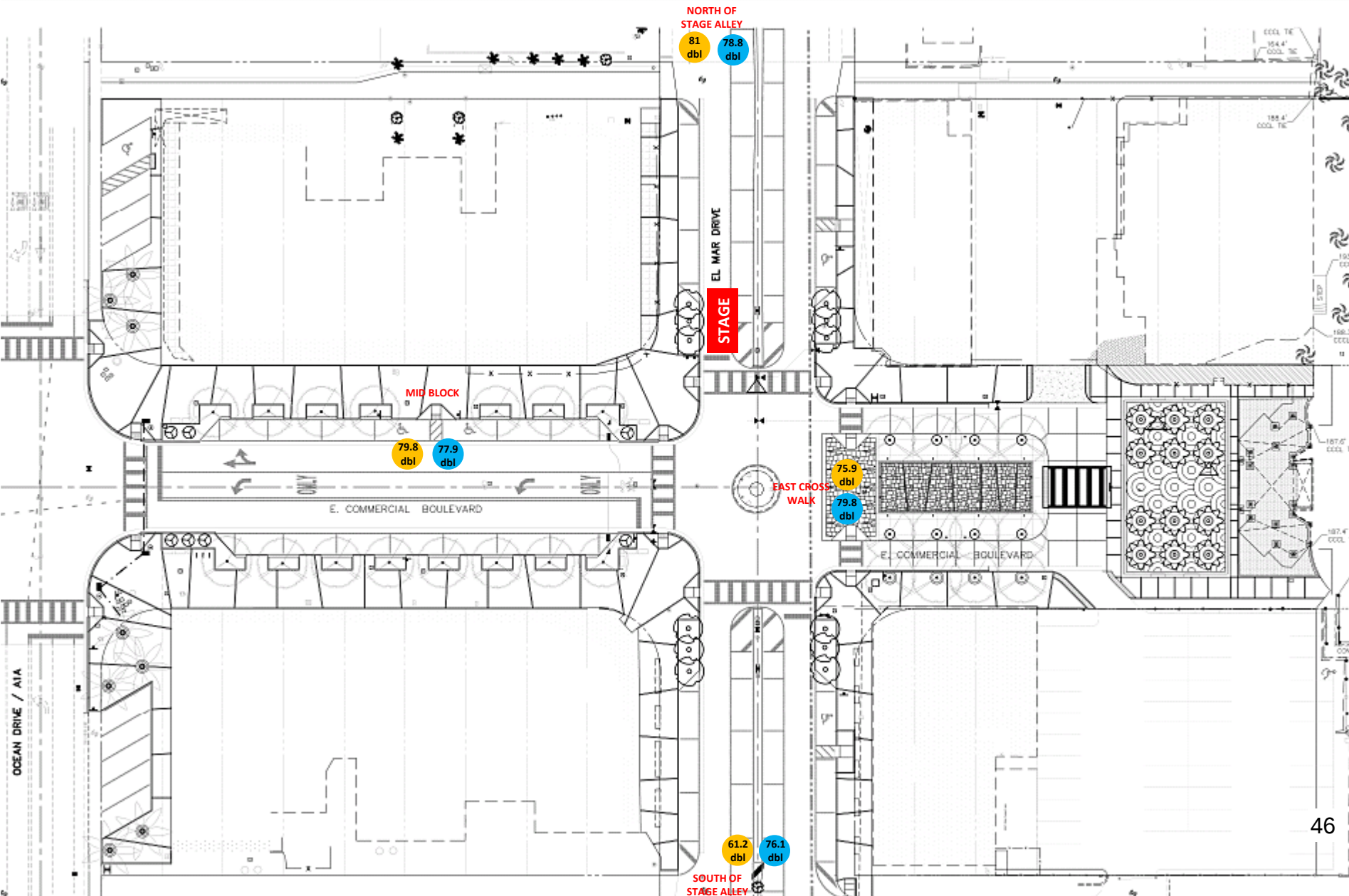
Town Zoning District

	Zone A Business, Retail Business
	Zone B Residential
	Water

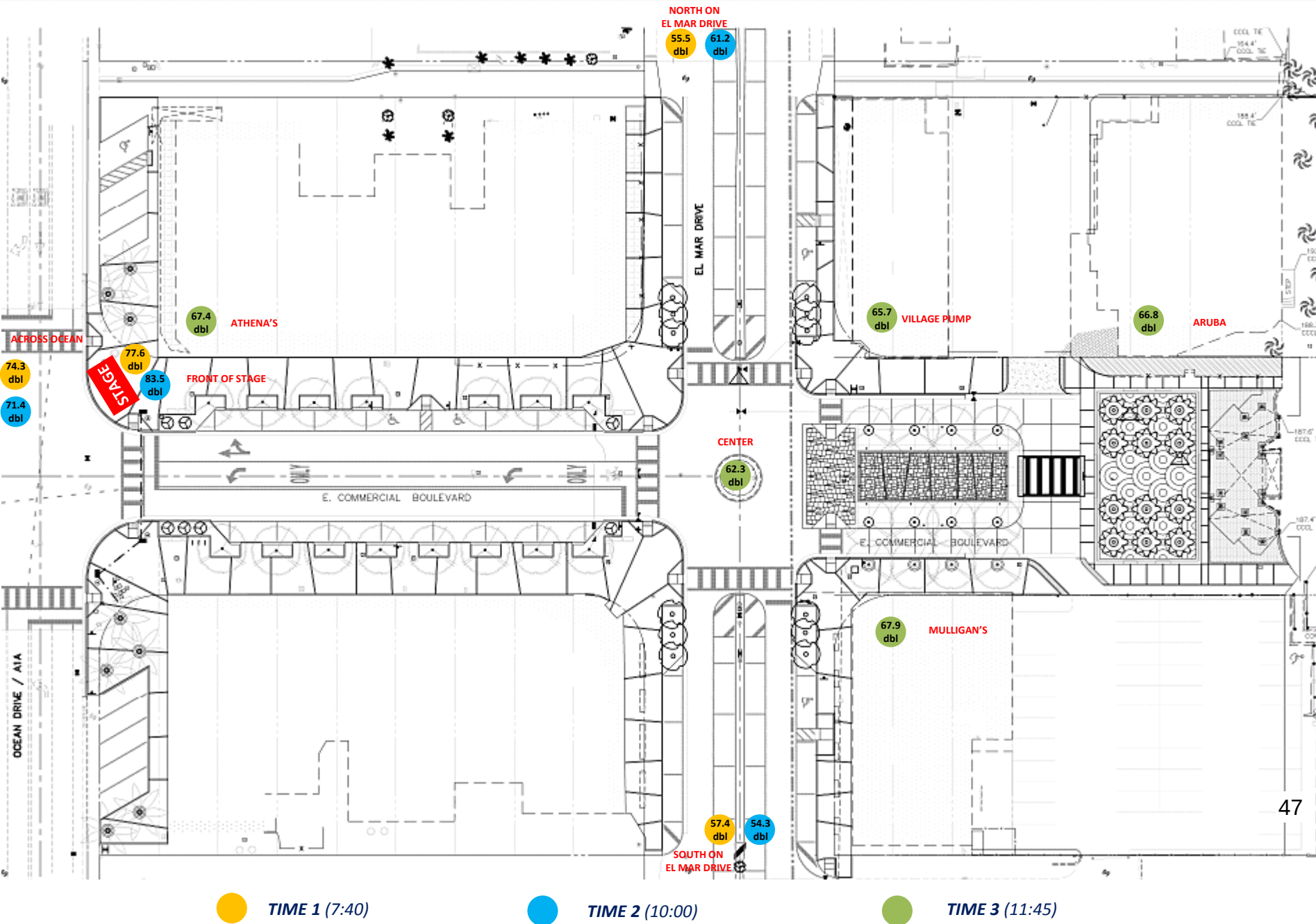


0 800 1,600 3,200 Feet

CHEN & ASSOCIATES
Civil and Environmental Engineers



TIME 2 (10:20 – 10:18)

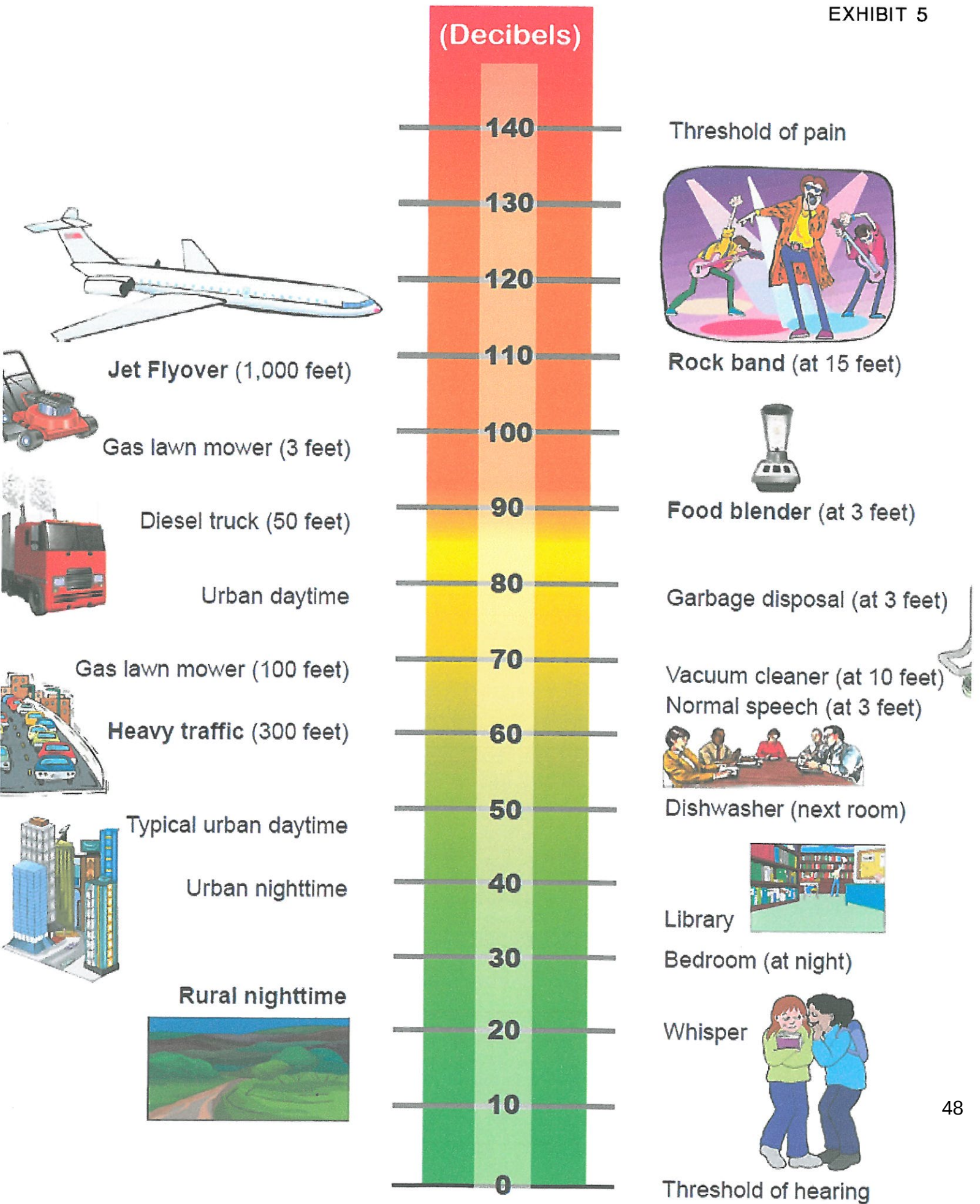


Common Outdoor Noises

Sound Level

Common Indoor Noises

EXHIBIT 5



TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

REGULAR MEETING

MINUTES

Jarvis Hall

4505 Ocean Drive

Tuesday, August 20, 2013

7:00 P.M.

1. CALL TO ORDER, MAYOR ROSEANN MINNET

Mayor Roseann Minnet called the meeting to order at 7:00 p.m. Also present were Vice Mayor Scot Sasser, Commissioner Mark Brown, Commissioner Stuart Dodd, Commissioner Chris Vincent, Town Attorney Susan L. Trevarthen, Town Manager Connie Hoffmann, Assistant Town Manager Bud Bentley, Municipal Services Director Don Prince and Town Clerk Vanessa Castillo.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION - Pastor James Corgee

Pastor James Corgee gave the Invocation.

4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS

None

5. PRESENTATIONS

None

6. PUBLIC COMMENTS

Mayor Minnet opened the meeting for public comment.

Jerry Sehl said an album by "Muriel" was recorded in Lauderdale-By-The-Sea, which he would make available and that he was working on having a "Vaudeville Night" in the Town.

Bill Ciani discussed the tree issues in the East Commercial Boulevard project, stating his preference for palm trees instead of pigeon plums and that he preferred a clear view

of the pier. He also objected to complaints by condominium owners about noise, music, etc.

Bruce Cummings, Landscape Architect, clarified his input to the Town Manager on possible substitutes for the pigeon plums. He preferred gumbo limbos which provided the desired canopy, but said they had a white fly issue. He said that green buttonwoods could be found, that he could not find clusias, and said coconuts were better for visibility.

Edmund Malkoon sent thoughts and prayers out to the families of Frank Herman and Leland Owens, who recently passed away. The First Annual Fish Fry would take place August 23, 6:00 p.m. to 9:00 p.m. at Anglin's Beach Café.

John Boutin commented on the tree selection on East Commercial Boulevard and that he liked the ideas for a "Vaudeville Night", Art in Public Places, and the Farmer's Market. He was opposed to Oriana's request to modify the noise ordinance.

Ken Brenner asked that the plaza marquis on Commercial Boulevard remain as originally planned. His yard waste had not been picked up in two days, though he called WSI twice about it.

With no one else wishing to speak, Mayor Minnet closed the public comment portion of the meeting.

7. PUBLIC SAFETY DISCUSSION

a. BSO Monthly Report – July 2013 (Captain Fred Wood)

Commissioner Dodd made a motion to accept the report. Vice Mayor Sasser seconded the motion. The motion carried 5-0.

b. AMR EMS Monthly Report – July 2013 (Chief Brooke Liddle)

Commissioner Dodd made a motion to accept the report. Vice Mayor Sasser seconded the motion. The motion carried 5-0.

c. VFD Monthly Report – July 2013 (Fire Chief Judson Hopping)

Chief Hopping presented Merit Awards/Certificate of Achievement to firefighters Brittany Louvaris, Chris DiMarzo, and James "J.T." Bacigalupi for their actions at a residential fire emergency on August 1st.

Commissioner Dodd made a motion to accept the report. Vice Mayor Sasser seconded the motion. The motion carried 5-0.

8. TOWN MANAGER REPORTS

a. July 2013 Finance Report (Finance Director Tony Bryan)

The report was accepted without discussion.

b. Commercial Boulevard Projects Update – Verbal Report (Project Manager Albert Carbon and Paul Carty, SCEC)

This item was discussed after Item 8d

Project Manager Albert Carbone and Paul Carty, State Construction and Engineering Corporation (SCEC), gave an update on the Commercial Boulevard projects. Two milestones were met. First was the acquisition of the coastal construction control line (CCCL) permit from the Florida Fish and Wildlife Conservation Commission (FWC) and the Department of Environmental Protection (DEP), so the lighting package for the projects could be submitted. Second, the issues with FP&L were resolved and materials would be delivered the coming Friday.

Town Manager Hoffmann remarked additional streetlights were needed, as the FWC restrictions resulted in reduced lighting; cost estimates would be given in budget revisions.

Vice Mayor Sasser thanked staff for the update, noting it was critical to finish the project on time. He asked if all the permits were in place for East Commercial Boulevard.

Mr. Carbone reiterated they received the CCCL permit, and one of the conditions of compliance in the permit was for the Town to provide the actual lighting submittals.

Vice Mayor Sasser asked if any permits were outstanding that could delay the project. The Commission set a December deadline, and issues were likely to arise during the project that could make meeting the deadline more critical. He wondered about a contingency plan to allow temporary access on the roadways during the busy season.

Mr. Carty said the area of the project where all the underground work was taking place would be completed and open to traffic by the deadline. For areas where work had not begun, if they continued to work as a team, issues would be dealt with appropriately.

Town Manager Hoffmann clarified the contingency plan was that it was likely to be the fine detail work that might be delayed, but the roadway would be open.

Commissioner Vincent remarked, in the event the promenade area was not vehicular accessible, a contingency was to use both alleyways for vehicles to access the area.

Commissioner Dodd congratulated the project team for staying close to the schedule, knowing they would continue to do so, even in the face of difficulties.

c. Board of Adjustment (BOA) Membership (Town Planner Linda Connors)

This item was discussed after Item 8a.

Town Manager Hoffmann explained there were two applicants, Sandra Green and Bonnie Myers, and there were two vacancies to fill, along with one alternate.

Commissioner Dodd made a motion to appoint Sandra Green and Bonnie Myers as members to the Board of Adjustment (BOA). Vice Mayor Sasser seconded the motion. The motion carried 5-0.

d. Town Manager's Report (Town Manager Connie Hoffmann)

This item was discussed after Item 8c.

Town Manager Hoffmann reviewed her report as reflected in the backup, mentioning tremendous progress with removal of trees that disrupt FP&L power lines

Mayor Minnet felt the Town's code regarding trees and power lines was satisfactory, but residents needed to be clear on how it was being handled. She asked about the letters referred to in the backup that stated the reasons for and methods of enforcement.

Town Manager Hoffmann said the letters dealt trees touching power lines that disrupt electrical power and ways this was being addressed. Town staff went on a case-by-case basis to determine if trees should be trimmed or removed.

Commissioner Dodd felt the Town should not wait until January if FP&L lacked the funding to fix the problem now. He believed the removal of the trees benefited the entire community and the Town should allocate dollars for tree removal.

Mayor Minnet asked the Town Manager and Town Attorney to see if such activity fell within the Neighborhood Improvement Program (NIP). She supported a strong policy.

Vice Mayor Sasser echoed support for the Town's taking a strong stance, as a program in Terra Mar to address outages had worked well. He preferred to wait until January for FP&L to remove the trees, as such activity could get very expensive.

Town Manager Hoffmann commented staff would continue to work with FP&L to identify trees and compile an inventory of other neighborhoods. In January, residents with the problem trees could be approached about tree removal or, over the next few months, residents could sign FP&L letters for the removal of the trees in January.

- Super Storm Sandy Sand – Town Manager Hoffmann advised the Commission of her discussion with the Army Corps project manager about getting the

southern portion of the beach added back into the project and said the Commission would be kept updated on efforts to get that decision reversed.

Commissioner Brown felt frustrated, as the Army Corps asked for the Town's opinion on access sites, but then gave us little choice in the matter. He had called Congresswoman Frankel's office the previous day and would follow up with that contact. It appeared that the Town had no control over the project, but the sand was needed, so the Town should accept the sand on the Army Corps' terms, using Hibiscus Avenue if the issue with Palm Avenue could not be resolved. The Town could bear some of the cost to repair the Palm Avenue portal.

Vice Mayor Sasser repeated his objections to the Town's involvement in the subject project. He felt the Corps' removal of the south delivery site from the project was a silver lining, as it reduced the number of trucks driving through the Town.

- Convention & Visitors Bureau (CVB) agreed to double its contribution to the Chamber of Commerce for the Welcome Center. As a result, there could be a \$20,000 reduction the Town's budgeted contribution to the Chamber for Fiscal Year (FY) 2014, taking it down to \$26,400

Commissioner Dodd congratulated Mayor Minnet and Town Manager Hoffmann for a successful meeting with the CVB to increase the Welcome Center's funding.

Commissioner Dodd made a motion approve revising the budget line item for the Chamber of Commerce as stated above. Vice Mayor Sasser seconded the motion. The motion carried 5-0.

- Cost for Advertising – Town Manager Hoffman sought direction on ads in the *Pelican* and *Hi-Riser* newspapers based on prices provided in the backup

Vice Mayor Sasser felt it was important to advertise, so people knew the businesses remained open during construction. He recommended taking out the smallest ad, a quarter page, in both *The Hi-Riser* and *The Pelican* for \$553.

Vice Mayor Sasser made a motion to take out a quarter page ad in each of the above-named publications for a total of \$553. Commissioner Vincent seconded the motion. The motion carried 5-0.

- Sister Cities – The State Coordinator for the program supported the Town keeping the organization going. The Commission's approval was being sought for the payment of the fees to the State to reactivate the corporation.

Commissioner Dodd made a motion approve paying the fee for Dr. Most's resignation. Vice Mayor Sasser seconded the motion. The motion carried 5-0.

Mayor Minnet read into the record the letter in the backup from Cris Boehler, the former Florida State Coordinator with the Sister City Program, which shed light on the program in LBTS.

- Recommended using the name “Anglin’s Square” for the plaza that the East Commercial designers referred to in their design as the beach and dune plaza in order to avoid confusion. The Commission agreed with this suggestion.
- All-red pedestrian phase signals were corrected to include a countdown the previous Saturday.

Town Manager Hoffmann said the County and the Florida Department of Transportation (FDOT) wanted the trial period extended until after the East Commercial project was completed. The Commission agreed.

9. TOWN ATTORNEY REPORT

Town Attorney Trevarthen referred to the backup on the ongoing code appeal cases.

10. APPROVAL OF MINUTES

- a. June 10, 2013, Special Town Commission Meeting Minutes
- b. June 11, 2013 Regular Town Commission Meeting Minutes

Commissioner Vincent made a motion to approve the above stated minutes as presented. Commissioner Brown seconded the motion. The motion carried 5-0.

11. CONSENT AGENDA

Commissioner Vincent a motion to approve item 11a on the Consent Agenda. Commissioner Brown seconded the motion. The motion carried 5-0.

- a. Requests for 72 Parking Permits for the Lauderdale-By-The-Sea Women’s Club (Town Clerk Vanessa Castillo)

12. ORDINANCES – PUBLIC COMMENTS

a. Ordinances 1st Reading

None

b. Ordinances 2nd Reading

- i. **Ordinance 2013-07: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, AMENDING CHAPTER 30, UNIFIED LAND DEVELOPMENT REGULATIONS, ARTICLE VIII, SIGN REGULATIONS, TO REVISE AND CLARIFY SIGN TYPES, SIGN REQUIREMENTS AND STANDARDS, AND**

DEFINITIONS; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE. (TOWN PLANNER LINDA CONNORS)

Mayor Minnet opened the discussion for public comment, which she closed upon receiving no input.

Commissioner Dodd made a motion to approve Ordinance 2013-07. Commissioner Vincent seconded the motion. The motion carried 5-0.

13. RESOLUTIONS – PUBLIC COMMENT

- a. Resolution 2013-34:** 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 LAND DEVELOPMENT REGULATIONS TO REMOVE THE NOTICE OF INTENT PROCEDURE; PROVIDING FOR APPLICABILITY; PROVIDING FOR AN EFFECTIVE DATE. (TOWN PLANNER LINDA CONNORS)

Mayor Minnet opened the discussion for public comment, which she closed upon receiving no input.

Commissioner Dodd made a motion to approve Resolution 2013-34. Commissioner Brown seconded the motion. The motion carried 5-0.

- b. Resolution 2013-35:** A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA AMENDING THE DEVELOPMENT REVIEW PERMIT AND LICENSE FEE SCHEDULE; PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE. (TOWN PLANNER LINDA CONNORS)

Mayor Minnet opened the discussion for public comment, which she closed upon receiving no input.

Commissioner Vincent made a motion to approve Resolution 2013-35. Commissioner Brown seconded the motion. The motion carried 5-0.

- c. Resolution 2013-36:** A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA ADOPTING THE FIRST RESTATED AND AMENDED AGREEMENT BY AND BETWEEN THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA AND LAUDERDALE-BY-THE-SEA VOLUNTEER FIRE DEPARTMENT, INC. FOR FIRE PROTECTION AND FIRE PREVENTION SERVICES, PROVIDING FOR CONFLICT, PROVIDING FOR AN EFFECTIVE DATE. (TOWN MANAGER CONNIE HOFFMANN)

Mayor Minnet opened the discussion for public comment, which she closed upon receiving no input.

Commissioner Vincent made a motion to approve Resolution 2013-36. Commissioner Brown seconded the motion. The motion carried 5-0.

14. QUASI-JUDICIAL PUBLIC HEARINGS

None

15. COMMISSION COMMENTS

Commissioner Vincent mentioned that the Beachside Village Resort owned by Mr. Gadsby was named by the *Wall Street Journal* and *Trip Advisor* as the nation's friendliest hotel for pets and brought positive press for the Town.

Mayor Minnet thanked Steve d'Oliveira, Public Information Officer, and John Boutin, Windjammer Resort, for arranging the Commission's snorkeling tour of the Bio Reef project and the snorkel trail the past Saturday. She thanked the divers for making it such enjoyable excursion..

Commissioner Brown attended the Florida League of Cities (FLC) Conference the previous week, where his t-shirt with the Town's new brand logo attracted many compliments and opened discussions about the Town. He met with Rita Harvey of the Florida Department of Environmental Protection (FDEP) and discussed funding opportunities for things such as: public restrooms, acquiring a building for a type of marine observatory center, upgrading the Town's municipal park, and establishing an underwater marine park. He would speak with staff and the FDEP about grant applications. Commissioner Brown attended the Transportation Strike Team's meeting at the conference and spoke about license plate reader cameras; he asked if they could lobby the Legislature to allow cities to use the FDOT traffic poles. The chairman was against it, but others in the meeting were supportive and asked him to draft a legislative proposal for presentation at the Team's next meeting in Jacksonville.

Town Manager Hoffmann said the only grant program that was currently funded was the Florida Recreation Development Assistance Program (FRDAP) and the application deadline was mid-September. It was possible for the funds to be used to put new lighting at the tennis courts, but if state monies were used to improve Town facilities, anyone from the public could use them, not just Town residents.

Mayor Minnet recalled this was a major issue in the past, as residents were vehemently opposed to opening the courts to the general public, given the limited availability of tennis courts in the Town. She was open to exploring the idea of an underwater marine park.

Commissioner Brown commented, given the short timeline, the easiest grant application would be to fix the bocce ball courts.

Mayor Minnet agreed and said the tennis courts could be looked at later and include resident input gathered.

Vice Mayor Sasser offered condolences on the passing of Frank Herman, noting he always brought humor to difficult issues. He echoed commendations for an enjoyable snorkel tour. He also said he would miss the Fish Fry event on Thursday and encouraged everyone to attend, as it would be a good community event.

Commissioner Dodd reported on the recent Hillsboro Inlet Meeting highlights continued work on getting the flow meter; progress in obtaining permanent permits recognized by the Army Corps and the FDEP; and first of the workboats was taken out of the water for its three-year overhaul.

16. OLD BUSINESS

a. Community Bus Service Extension (Assistant To The Town Manager Pat Himelberger)

Assistant to the Town Manager Pat Himelberger advised the Commission the Town had been successful in its application to the County for extended weekend hours of operation of the Pelican Hopper. The County would contribute funding and she sought an amendment to the Fiscal Year 14 budget of \$8,900 for the Town's share of the cost.

Commissioner Brown inquired if the Town made any progress publicizing the schedule and getting a mobile application ("app"), so people waiting on the bus knew when it would come.

Ms. Himelberger stated Town staff was working on a new schedule brochure with the County, and it would be publicized after the subject item was approved. The mobile app would be funded by the County within the next two years.

Town Manager Hoffmann recalled **staff's research revealed** it would be quite expensive for the Town to create its own app.

Ms. Himelberger added the bus schedules posted on the Town's website were not for specific stops, and staff was trying to work through this issue with the County. She also said the Town's desire to add Pelican Hopper stop signs to the County's poles was stymied by American Disability Act (ADA) requirements for bus stops..

Mayor Minnet was in favor of the extension and amending the budget, and hoped it might be possible to advertise the bus schedule in the *Pelican* and the *Hi-Riser*.

Town Manager Hoffmann assured the service would be promoted once approved.

Commissioner Dodd supported the Pelican Hopper, but wanted to make sure the Town was getting value for its money. He asked staff for a review six months after the service began and for updates on the level of ridership each month.

Ms. Himelberger noted in order for the Town to retain County/ federal funding, a certain level of ridership had to be maintained.

Vice Mayor Sasser made a motion to approve item 16a. Commissioner Dodd seconded the motion. The motion carried 5-0.

- b. Timing of consideration of Charter Amendment Ordinance (Town Attorney Susan Trevarthen)

Town Attorney Trevarthen went over the proposed ordinance. Having the first reading in either September or October would allow adequate time to make it on the ballot at the municipal election.

Commissioner Brown said he would be out of town for the October 8, 2013, meeting.

Commissioner Dodd preferred having the first reading in September to allow more time.

Vice Mayor Sasser asked if each amendment would be a separate ordinance or were all the amendments contained in one ordinance.

Town Attorney Trevarthen replied it was drafted as one ordinance, but the Commission could make different decisions on each amendment. Anyone objecting to an amendment or provision could make a motion to separate the items and have the Commission approve those amendments to which there were no objections.

Mayor Minnet acknowledged a Commission consensus for the ordinance to be presented for first reading at the Town Commission meeting on September 10, 2013.

- c. Screening of Waste Receptacles (Carts) (Assistant Town Manager Bud Bentley)

Assistant Town Manager Bentley reviewed the subject item as detailed in the backup.

He indicated ordinance language would state that the placement of carts in the front yard was a last resort.

Commissioner Dodd wondered if enough requests were made to place carts in the front yard to warrant changing the Town's code to allow such action.

Assistant Town Manager Bentley advised he spoke with less than five citizens concerned about this matter, but when the Town sent out notices about storing carts,

some members of the community wished the Commission to review the matter and make a decision.

Commissioner Dodd preferred the original interpretation of the code. Whatever shielding was erected for the cart should satisfy the code's criteria.

Vice Mayor Sasser asked for a definition of an acceptable screen for the carts.

Assistant Town Manager Bentley read the definition contained in the backup, noting "container", as stated in the ordinance, was synonymous with "cart".

Vice Mayor Sasser remarked that even with an enclosure, it was difficult to shield multiple carts. Staff had to find a way to deal with this to allay residents' fear of being cited.

Staff received confirmation from the Commission that conditional uses should only be granted if the only alternative was to store carts in the front yard.

There was a Commission consensus for applications to go to Planning and Zoning Board (P&Z), and dissatisfied applicants could go to the Commission and appeal. Applicants would be granted a conditional use if there was no appropriate place to store the cart(s) but the front yard.

- d. Tree Selection for Sidewalks on the East Commercial Streetscape Project
(Town Manager Connie Hoffmann)

This item was discussed after Item 8b.

Town Manager Hoffmann commented that various landscape architects had advised her that replacing the shade trees called for on the sidewalks in the East Commercial streetscape project with palm trees created as proposed by some merchants would create a monotonous landscape. Landscape Architect Hugh Johnson, Architectural Alliance, recommended using palm trees at the two corners of Commercial Boulevard and S.R. A1A, in front of Athena's and Azteca's, rather than pigeon plum trees. Johnson had suggested alternative shade trees, the clusia or the buttonwoods, would not create a canopy over the sidewalk quickly, but they would eventually provide more shade than palm trees. The gumbo limbo was rejected as an alternative because its roots would undermine the sidewalk. The Commission needed to make a decision, so staff could order the trees.

Vice Mayor Sasser did not find palm trees monotonous and supported planting coconut palms. Sail shades could be used for additional canopy. The Town could create an ordinance or resolution to allow umbrellas for outdoor dining.

Commissioner Vincent noted no one complained about the pigeon plums that had been in front of Scot's over the past 15 years and that clusia and buttonwoods were great alternatives.

Commissioner Brown preferred to go with staff's recommendations.

Commissioner Dodd agreed palm trees provided inadequate shade and asked if buttonwoods could be trained to achieve the desired canopy.

Town Manager Hoffmann noted the Town had to specify single-trunk buttonwood trees, as they could be pruned to create a canopy.

Mayor Minnet asked if the species of trees were available for the timeframe needed.

Mr. Johnson affirmed they were.

Town Manager Hoffmann said the pigeon plums were unavailable in the desired height.

Commissioner Vincent made a motion to approve item 16d, substituting three (3) palms at the corners of A1A and Commercial Boulevard, and to choose between green buttonwood or clusia rosea trees, depending on availability and price. Commissioner Brown seconded the motion. The motion carried 4-1 with Vice Mayor Sasser voting no.

17. NEW BUSINESS

- a. Setting a Development Fee for an Art in Public Places Program
(Commissioner Stuart Dodd)**

Commissioner Dodd referred to the backup provided and thought such a fee could help fund the sculptures for the four plazas, and beautify the Town. He asked for a Commission consensus to direct the Town Attorney to review the examples in the backup and draft language tailored to the Town.

Commissioner Brown felt this was an excellent idea and the Town Attorney should draft the language. No art work had been considered for the East Commercial project.

Commissioner Dodd clarified the Town Commission only approved one sculpture and four bases pending future sculptures for the West, should they be approved.

Commissioner Vincent stated he was against the proposal, as the fees were set in other cities when large development created parks and public areas that warranted public art. Developers would pass the fee onto the property owners. As the cost of the five sculptures was about \$200,000, it would require \$20 million in redevelopment to generate enough fees to pay for the sculptures. He believed the Town desired no large

scale redevelopment, preferring to beautify existing buildings. Commissioner Vincent felt the money could be raised in other ways.

Commissioner Dodd mentioned Minto's future development and the half-complete development on Sea Grape. He said the percentage could be set at any amount by the Commission. The funds raised could be applied to residential and small beautification projects, and the fee was open to the Town's interpretation.

Vice Mayor Sasser liked the idea, but felt there were many details to work out, such as how the revenue would be spent. He said with all the other projects the Town was currently involved in, he preferred the matter be set aside for discussion in June 2014.

Mayor Minnet echoed support for the idea and acknowledged Commission consensus for discussion in June 2014.

Town Manager Hoffmann said she would place the matter on her priorities list for 2014.

b. Farmer's Market Agreement (Assistant To The Town Manager Pat Himelberger)

Anne Marchetti felt community markets were good sources of economic development that drew neighbors and visitors together. She was thrilled to see the proposal to bring Community Markets of South Florida to the Town.

Ms. Himelberger reviewed the proposed market as detailed in the backup, noting it was a good opportunity for the Town to partner with an established organization.

Commissioner Brown stated he was amenable to trying the proposed event, but he expressed concerns, such as: could El Prado Park accommodate a farmer's market?; the timing of 8:00 a.m. to 2:00 p.m., as at 2:00 p.m. most people were not leaving the beach; was there sufficient parking? He was unsure if the farmer's market would be successful and preferred doing it on the west side of Town.

Ms. Himelberger replied Mr. Bentley ran numbers on parking availability in the El Prado lot, and pointed out the Town would have 85 new spaces in the Minto lot; there was discussion about having the vendors park behind Town Hall. Other considerations included using El Mar Drive for event parking if the market became very successful.

Mayor Minnet felt it was great to have an outside entity put the market together at very little cost to the Town. This was a great opportunity to bring more people to the Town, and she believed El Prado Park lent itself to this type of market.

Ms. Himelberger mentioned promoting the market in the Pelican Hopper t, as it could be used to transport residents from their neighborhood to the market.

Vice Mayor Sasser made a motion to approve item 17b. Commissioner Vincent seconded the motion. The motion carried 5-0.

c. Oriana request for Modification of Noise Ordinance and Special Events permit
(Town Planner Linda Connors)

Town Manager Hoffmann noted representatives from the Oriana were unable to attend the meeting due to a conflict.

Mayor Minnet wished to confirm the Town's decibel limits were about 20 percent higher than many other municipalities.

Town Planner Connors affirmed they were, as shown in Town staff's research of area cities detailed in the backup. Staff would clarify if the municipalities they surveyed exempted special events or had a different noise standard for them.

Mayor Minnet commented many communities had problems with noise. However, the apartments at Oriana were purchased with the understanding that they were close to the entertainment area, with evening activities on Friday, Saturday and Sunday. She thanked the businesses for attending, as they put a lot effort, time and money to ensure events were successful. The Town could revisit the noise ordinance, but not to make adjustments to the degree the Oriana desired.

Town Planner Connors said BSO did some decibel readings for the Town in March 2013, and staff wished to do additional surveys when construction was completed.

Commissioner Dodd mentioned other factors to consider included: a noise nuisance should be confirmed by an actual reading with a noise meter. This issue was not a priority, and Town staff could continue their research.

Commissioner Vincent explained 50 to 60 decibels was quiet to normal conversation, 70 was annoying, 80 resulted in possible hearing damage, and 90 was hearing damage.

Commissioner Brown pointed out BSO's measurements rarely came in more than the high 60s or 70s, so this seemed a more logical ballpark than the existing 90 decibel level. It was not unreasonable for music to go until 10:30 p.m.

Mayor Minnet acknowledged Commission consensus to bring the matter back at a later time, and she asked for the discussion to include the ordinance addressing music that began early in the morning and afternoon hours

d. Solid Waste Collection Rates for October 1, 2013 – Policy Direction (Assistant
Town Manager Bud Bentley)

Town Manager Hoffmann sought direction on the issues listed in the backup, stating Mr. Bentley would give a full analysis of their impact on collection rates at the next meeting.

Commissioner Dodd spoke in favor of differential pricing for cart size. If someone opted for a larger cart, they should pay a higher rate for putting more demand on the service. Other Commissioners disagreed.

There was a Commission consensus for establishing one rate.

- e. Price proposal for Reef-Themed Sculptures (Town Manager Connie Hoffmann)

Town Manager Hoffmann advised the price to do the four sculptures was \$97,000, plus \$6,000 if they were pre-anodized as the Mayor suggested, totaling \$103,200. The cost was in line with the sum previously estimated by the sculptor, Laurie Fisher Huck.

Commissioner Dodd made a motion to approve item 17e. Commissioner Vincent seconded the motion. The motion carried 5-0.

Town Manager Hoffmann mentioned in the five drawings, one was of a black leopard ray that was more attractive than the brown ray that was native to the Town's reef.

Vice Mayor Sasser preferred the eagle ray that was indigenous to the area.

Commissioner Brown liked the eagle ray. The turtle sculpture was the same as on the entryway sculpture, and there were three species of turtles nesting on the Town's beach. He asked if it were possible to change the reef turtle sculpture to another turtle.

Town Manager Hoffmann said that a switch was possible.

Mayor Minnet concurred with keeping all the sea life to indigenous species.

- f. Supplemental Agenda Item – Paver Selection Options for the East Commercial Sidewalks (Town Manager Connie Hoffmann)

This item was discussed after Item 16d.

Town Manager Hoffmann reminded the Commission that Mr. Carty, SCEC, suggested using pavers instead of concrete to have less impact on the merchants during construction. The Commission approved the pavers only for block two. Placing pavers in block one cost close to \$27,000 more. The designers and staff suggested using 50 percent shell aggregate pavers and 50 percent plain pavers. She asked if the Town had to pay extra for the white cement pavers as opposed to gray cement.

Mr. Carty answered yes, but the shell pavers would be white, reducing the cost of the cement pavers by about \$10,000. He provided paver samples.

Commissioner Brown opted for the darker paver, as they tended to fade with time.

Mayor Minnet preferred the darker paver for contrast.

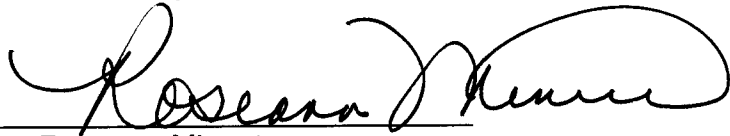
Town Manager Hoffmann questioned whether the Commission wished to incorporate the cost of using the shell aggregate pavers.

There was a Commission consensus to use a combination of the shell aggregate pavers and the darker paver for contrast.

Town Manager Hoffmann said Mr. Carty would order tan pavers and shell aggregate pavers, and staff would present an amendment to the contractor's contract for the cost.

18. ADJOURNMENT

Commissioner Dodd made a motion to adjourn. With no further business before the Commission, Mayor Minnet adjourned the meeting at 9:42 p.m.



Mayor Roseann Minnet

ATTEST:



Town Clerk Vanessa Castillo

10/8/13
Date

Sec. 3-6. - Regulations as to conduct on premises—Generally.

- (a) No vendor shall permit the premises to be used for any immoral, improper or criminal purposes, neither shall the vendor permit persons of known immoral, improper or criminal habits to frequent, loiter or assemble on the premises or in the entrance thereto.
- (b) No vendor, except nightclubs, shall allow or permit between the hours of 12:00 midnight and 9:00 a.m. the following morning, instrumental music, singing or other forms of entertainment in any room where beer, wine, liquor and/or other alcoholic beverages are sold or offered for sale, indoors or outdoors except those rooms which are soundproofed, so that the noise therefrom may not disrupt the peace and quiet of the neighborhood. It is intended hereby that in soundproofed rooms, music, singing or other forms of entertainment may be conducted during the hours that alcoholic beverages may be sold, as set forth herein, but at no other hours.
- (c) It shall be unlawful for any intoxicated person to loiter in and about the premises used and/or occupied by any vendor and it shall be the duty of the operator to remove such intoxicated persons from the premises.
- (d) No vendor who is not licensed to sell liquor to be consumed upon the premises, shall knowingly furnish or provide any setups, glasses, or other service to any person for the purpose of consuming liquor in, at or upon the licensed premises.
- (e) No vendor or distributor shall knowingly, directly or indirectly, commit, or assist in the commission of, any unlawful act upon any licensed premises.
- (f) Vendors shall provide seats for use of their customers.

(Code 1962, § 3-17)

Sec. 13-6. - Noise limitations.

- (a) *Prohibition of sound disturbance.* No person shall make, continue or cause to be made or continued any sound disturbances which violate the noise limitations, as defined in this section.
- (b) *Method of measurement generally.* For the purpose of measuring the volume, intensity and frequencies of sound, the measurement of sound shall be made with a sound level meter operating on the "A" and "C" weighting scale of any standard design and quality meeting the standards prescribed by the American National Standards Association (ANSI). The instruments shall be maintained in calibration and good working order. Measurements recorded shall be taken so as to provide a proper representation of the sound source. The microphone used during measurement shall be positioned so as not to create any unnatural enhancement or diminution of the measured sound. A wind-screen for the microphone shall be used when required. Traffic, aircraft, and other background sounds shall not be considered in taking measurements, except where such background sound interferes with the primary sound being measured.
 - (1) The slow meter response of the sound level meter shall be used in order to best determine that the average sound has not exceeded the standards set forth in subsections (c)(1) and (c)(2) below.
 - (2) The measurement shall be made at or beyond the real property line of the property on which such sound is generated, or perceived, as appropriate, approximately five feet above ground.
 - (3) In the case of an elevated or directional sound source, compliance with the sound limits is to be maintained at any elevation at or beyond the real property line.
- (c) *Maximum sound levels.* The maximum dBA and dBC sound levels permitted on any property within the Town shall be as follows:
 - (1) The following maximum limitations on sound disturbances shall apply within Zone A (commercial noise zone), as delineated in the map shown in Figure 13:
 - a. Between the hours of 7:00 a.m. and 10:00 p.m., no person shall make, cause, allow, or permit the operation of any continuous source of sound in such a manner as to create, when measured at or beyond the real property line from which the sound emanates, a sound level that exceeds 85 dBA or 85 dBC.
 - b. Between the hours of 10:00 p.m. and 7:00 a.m. the following morning, no person shall make, cause, allow, or permit the operation of any continuous source of sound in such a manner as to create, when measured at or beyond the real property line from which the sound emanates, a sound level that exceeds 75 dBA or 75 dBC.
 - (2) The following maximum limitations on sound disturbances shall apply within Zone B (residential noise zone), as delineated in the map shown in Figure 13:
 - a. Between the hours of 7:00 a.m. and 10:00 p.m., no person shall make, cause, allow, or permit the operation of any continuous source of sound in such a manner as to create, when measured at or beyond the real property line from which the sound emanates, a sound level that exceeds 60 dBA or 65 dBC.
 - b. Between the hours of 10:00 p.m. and 7:00 a.m. the following morning, no person shall make, cause, allow, or permit the operation of any continuous source of sound in such a manner as to create, when measured at or beyond the real property line from which the sound emanates, a sound level that exceeds 55 dBA or 65 dBC.
- (d) *Maximum sound level for activities duly authorized by special event permit.* An activity which has been granted a special event permit pursuant to article VIII of chapter 17 of the Code of Ordinances shall be subject to the maximum limitation on sound disturbances provided within this subsection. In connection with the permitted special event, no person shall make, cause, allow, or permit the operation of any continuous source of sound in such a manner as to create, when measured at or beyond 100 feet from the source from which the sound emanates if the source is located on public

EXHIBIT 4

property, or at or beyond the real property line if the source is on private property, a sound level that exceeds the dBA or dBC standard in (c) applicable to the point of measurement and the time of measurement, unless a different standard is established in the special event permit.

(Ord. No. 2009-14, § 2, 7-28-09; Ord. No. 2014-06, § 2, 8-19-14)



Agenda Memorandum

**Administration/
Development Services**

Department

Bill Vance/Linda Connors

Town Manager/Director

COMMISSION MEETING DATE: May 16, 2019

ITEM CATEGORY: New Business

SUBJECT TITLE: Downtown Discussion - Signage.

EXPLANATION: At the January 9, 2019 meeting, Vice-Mayor Sokolow asked for a workshop to solicit public input regarding the following items that are currently regulated by the Town's sign code (**Exhibit 1 - Code**). Research regarding these issues follow:

1. Section 30-505 Prohibited Signs (specifically Sandwich Signs).

The Town Code prohibits sandwich signs, but allows wall signs to be used as menu signs in Sec. 30-508 (c) (7). Sandwich signs are defined as:

Sandwich sign: A movable, portable, freestanding, A-frame board construction sign not secured or attached to the ground that can be folded and carried by an individual.

Sidewalks are crowded and we are already struggling to provide sufficient pedestrian space competing with sidewalk cafés, and parking meters and lighting. Adding sandwich board signs, especially east of Ocean Drive, would compound the issue.

Sandwich board signs are inconsistent with our clean and sleek ambiance.

Staff recommendation:

1. Continue to prohibit sandwich board signs east of Ocean Drive.
2. Any potential change to the Code regarding sandwich boards should be limited to Commercial Boulevard west of Ocean Drive. A test period allowing these signs should:
 - a. be limited to one per business,
 - b. be located adjacent to the building,
 - c. be placed to ensure that a minimum 5' pedestrian path is maintained, and
 - d. be of a design consistent with LBTS branding.

In the best case, the Town will provide a sign that is custom made to be consistent with the Town's vision (i.e. similar to the buoy signs or designed to include a pelican, Adirondack chair, etc.)



3. Relocate the noncommercial regulations from the zoning district regulations to exempt signs. Staff also believes that the downtown area would also benefit from the Town providing a freestanding sign frame for those businesses interested in having that type of sign to further enhance the downtown similar to what was suggested for sandwich board signs. This will ensure that the character of the downtown is maintained.

2. Sec. 30-506 – General Design Standards (6) – Maximum sign letter size.

The Town’s current standard is 12” letters for signs east of North Ocean Drive and 18” for signs located west of or facing North Ocean Drive. These regulations were established in 2014 after considerable review from the Planning and Zoning Board and Town Commission. Information that assisted these Boards at the time was Table 1 below (updated to include the Town’s current regulations). The Town Commission voted to increase the maximum letter size from 12 to 18 inches west of A1A to take into consideration the width of the road and established speed limits. Because traffic is more pedestrian in nature east of A1A, the Commission established a maximum letter size of 12”.

Table 1 – Suggested Letter Ranges based on Industry Standards

USSC Sign Legibility Recommendations	Letter Height Range				
	Town's Code	Upper And Lower Case		All Caps	
	Inches	Inches		Inches	
Commercial Blvd. West of A1A	18	14.2	18.4	17	22
Commercial Blvd. East of A1A*	12	11.85	15.3	14.13	18.4
Ocean from Flamingo Ave. to Imperial Lane	18	14.2	18.4	17	22
Ocean from Imperial Lane to Pine Ave.		11.4	14.7	13.5	17.6
Ocean North of Pine Ave.		13.3	18.4	15.8	20.6

* Calculations were based on 25 mph – much faster than the speed of traffic

3. Section 30-508 (c) Increasing the maximum size for wall signs.

Table 2 includes a sampling of sign permit applications with the requested information and approved information. As you can see, most of our businesses request signs that are well within the limitations of the code. When they are not, it is typically because the sign includes an oversized logo or decorative feature.



Table 2 – Sign Permit Applications and Requested/Approved Information

Application	Address	Requested letter size	Approved letter size	Requested square footage	Approved square footage
2018-22	4520 N Ocean	13"	13"	25	25
2019-11	227 Commercial	21" letters 36" logo	21" letters	37.3	32
2018-40A	250 Commercial	4.5-7.5"	4.5-7.5"	25	25
2018-34	275 Commercial	18"	18"	7	7
2018-33	238 Commercial	16.83"	16.83"	26	26
2018-27*	107 Commercial	18"	18"	23.7	23.7
2018-18	4404 Bougainvilla	11.46"	11.46	10.88	10.88
2018-17A	218 Commercial	12"	12"	33.43	32
2017-36	216 Commercial	15"	15"	32	32
2017-3A	235 Commercial	21"	18"	21.5	17.75

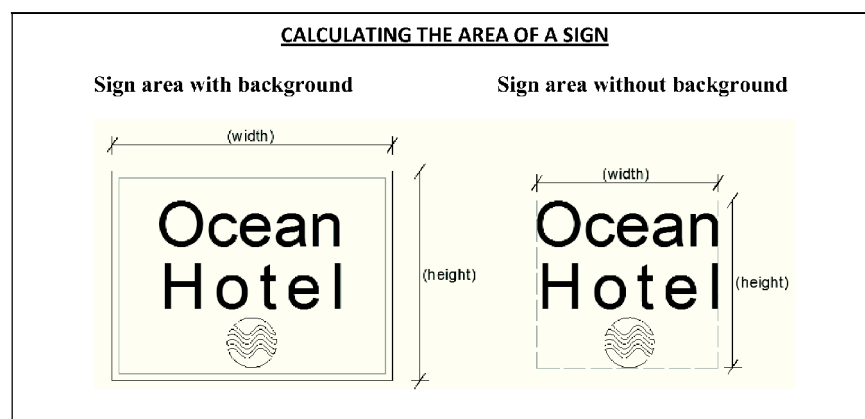
*Mid-century sign permit allows for larger lettering.

4. Sec. 30-506(c)(2) –Buildings are currently limited to three colors for signage, unless the business has a copyright.

This provision has been in the code for as far back as 2001. Some communities have requirements that all signage on a building is of the same singular color. The Town's regulation is a little more lenient, and allows three colors on wall signs for each building. This is to allow flexibility, but ensure that there is a relationship between the multiple signs on a building. Many of our multi-tenant buildings have chosen to require one color for all signs. In most instances, once the color palate has been selected, it has not been an issue. The code allows flexibility for tenants that have trademarks.

5. Section 30-506 (a) Area and Height Measurements

The Town code currently outlines the following as the way to measure signs (with and without a background). This is an industry standard.





Finally, it should be noted that the Town's regulation allows considerable flexibility for signs if they adhere to a Mid-century Modern style. This encourages creative signs that meet our preferred architectural style while also giving applicant's the ability for a sign that does not necessarily meet all of the requirements of the Town's sign regulations.

Exhibits: 1. Article VIII. Sign Regulations

☒	Yes	☐	No
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Reviewed by Town Attorney:

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ARTICLE VIII. - SIGN REGULATIONS^[16]

Footnotes:

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Editor's note— Ord. No. 2012-04, § 2, adopted March 27, 2012, repealed the former Art. VIII, §§ 30-501—30-510, and enacted a new Art. VIII as set out herein. The former Art. VIII pertained to similar subject matter and derived from Ord. No. 465, 3-27-01; Ord. No. 468, 6-12-01; Ord. No. 476, 7-10-01; Ord. No. 2007-06, 4-10-07; Ord. No. 2007-09, 5-22-07; Ord. No. 2007-14, 9-25-07; Ord. No. 2009-10, 7-28-09; Ord. No. 2010-16, 5-24-2011; Ord. No. 2011-11, 7-26-2011.

State Law reference— Sign ordinances, authority not superseded by shall not conflict with State of [or] Federal law, F.S. § 166.0425.

Sec. 30-500. - Purpose, scope and intent.

- (a) *Purpose.* In accordance with the U.S. Supreme Court's cases on sign regulation, the regulations in this article are not intended to regulate or censor speech based on its content or viewpoint, but rather to regulate the secondary effects of speech that may adversely affect the Town's substantial and compelling governmental interests in preserving scenic beauty and community aesthetics, and in vehicular and pedestrian safety in conformance with the First Amendment. These cases and their holdings include, but are not limited to:
- (1) *Reed v. Town of Gilbert*, U.S., 135 S. Ct. 2218, 192 L. Ed. 2d 236 (2015) on the topic of noncommercial temporary signs;
 - (2) *Metromedia, Inc. v. City of San Diego*, 453 U.S. 490 (1981) on the topic of commercial signs and off-premise signs;
 - (3) *City of Ladue v. Gilleo*, 512 U.S. 43 (1994) on the topic of political protest signs in residential areas;
 - (4) *Linmark Assocs., Inc. v. Township of Willingboro*, 431 U.S. 85 (1977) on the topic of real estate signs in residential areas;
 - (5) *Burson v. Freeman*, 504 U.S. 191 (1992) on the topic of election signs near polling places;
 - (6) *Central Hudson Gas & Electric Corp. v. Public Service Commission*, 447 U.S. 557 (1980) on the topic of regulation of commercial speech; and
 - (7) *City Council v. Taxpayers for Vincent*, 466 U.S. 789 (1984) on the topic of signs on public property.
- (b) *Scope.*
- (1) The provisions of this article shall govern the number, size, location, and character of all signs which may be permitted under the terms of this article. No signs shall be permitted on a plot or parcel except in accordance with the provisions of this article.
 - (2) This article does not regulate government signs on government property, including traffic control devices.
 - (3) In the event of any conflict between this article and any declaration of covenants, bylaws, or other restrictions applying to any property within the Town, the language affording the more restrictive interpretation shall apply.

EXHIBIT 1

- (4) The Town specifically finds that these sign regulations are narrowly tailored to achieve the compelling and substantial governmental interests of traffic safety and aesthetics, and that there is no other way for the Town to further these interests.
- (c) *Intent.*
- (1) *Substitution clause.* It is not the purpose of this article to regulate or control the copy, content or viewpoint of signs. Nor is it the intent of this article to afford greater protection to commercial speech than to noncommercial speech. Any sign, display or device allowed under this article may contain, in lieu of any other copy, any otherwise lawful noncommercial message that complies with all other requirements of this article. The noncommercial message may occupy the entire sign area or any portion thereof, and may substitute for or be combined with the commercial message. The sign message may be changed from commercial to noncommercial, or from one noncommercial message to another, as frequently as desired by the sign's owner, provided that the sign is not prohibited and the sign continues to comply with all requirements of this article.
- (2) This article establishes comprehensive regulations for the control of signs in order to preserve, protect, and promote the public health, safety and general welfare. More specifically, this article is intended to assist in achieving the following objectives:
- a. To authorize the use of signs that:
 1. Are compatible with their surroundings and the zoning district in which they are located and aid orientation and ensure pedestrian and traffic safety;
 2. Project the image, character and style the Town desires to promote;
 3. Reduce the visual clutter that may otherwise be caused by the proliferation, improper placement, illumination, animation, excessive height, and excessive area of signs which compete for the attention of pedestrian and vehicular traffic and are not necessary to aid in wayfinding;
 4. Establish size, number and placement limitations to ensure signage is the minimum reasonably necessary to identify a residential or business location, the nature of such uses and to allow smooth, safe navigation to these locations with signs that are legible in the circumstances in which they are seen; and
 5. Are not distracting or cluttered in a manner that disturbs the safe and free flow of vehicular and pedestrian movement;
 6. Are effective in performing the function of identifying and safely directing pedestrian and vehicular traffic to a destination;
 7. Do not interfere with, obstruct the vision of, or distract motorists, bicyclists or pedestrians;
 - b. To enhance the economic vitality of existing businesses and foster quality redevelopment by promoting the reasonable, orderly, and effective display of signs;
 - c. To encourage sound sign display practices, and to mitigate the objectionable effects of competition in respect to the size and placement of signs;
 - d. To enhance the physical appearance of the Town by protecting the manmade and natural beauty of the area;
 - e. To preserve the value of private property by assuring the compatibility of signs with nearby land uses;
 - f. Allow for traffic control devices and government signs without regulation consistent with national standards, because they promote highway safety and efficiency by providing for the orderly movement of road users on streets and highways, and by notifying road users of regulations and providing nationally consistent warnings and guidance needed for the safe, uniform and efficient operation of all elements of the traffic stream and modes of

EXHIBIT 1

travel, while regulating private signs to ensure that their size, location and other attributes do not impair the effectiveness of such traffic control devices;

- g. To prohibit the display of private signs on government property or right-of-way;
- h. Not regulate signs more than necessary to accomplish the compelling and substantial governmental objectives described herein; and
- i. To enable fair and consistent enforcement of these sign regulations.

(Ord. No. 2012-04, § 2, 3-27-2012; Ord. No. 2013-07, § 2, 8-20-2013; Ord. No. 2015-21, § 2, 12-8-2015)

Sec. 30-501. - Applicability.

This article shall apply to all property and land within the jurisdiction of the Town of Lauderdale-By-The-Sea. It is unlawful for any person, firm, or corporation that owns, occupies, or controls property in the Town of Lauderdale-By-The-Sea to construct, maintain, display or alter or cause to be constructed, maintained, displayed or altered, a sign within the Town except in conformance with this article.

(Ord. No. 2012-04, § 2, 3-27-2012; Ord. No. 2015-21, § 2, 12-8-2015)

Sec. 30-502. - Exempt signs.

Exempt from permitting. The Town has a compelling interest in allowing the following signs in order to comply with State and local laws and to promote public safety on Town property and/or in the street right-of-way. Any sign which does not meet the criteria of this section and is not specifically permitted elsewhere in this article is prohibited. All signs exempt from permitting pursuant to this section may be erected and displayed, provided:

- (a) They are not placed or constructed so as to create a hazard of any kind;
- (b) The sign structure meets all other applicable land-use and building-safety codes, regulations and permit requirements; and
- (c) The signs are kept at all times in good repair, freshly painted, and in a neat and clean condition.
- (d) The following signs may be installed without a sign permit, provided they meet the requirements listed below and are otherwise in conformance with this article.
 - (1) Customary tags and labels not exceeding 15 square inches in size on merchandise in display windows;
 - (2) Decals, limited to eight per business, not to exceed eight square inches each. Decals shall count toward the 25 percent window coverage maximum;
 - (3) *Flags* :
 - a. On residential property up to a cumulative maximum of 40 square feet; and
 - b. Up to four flags on non-residential property, up to a cumulative maximum not to exceed one square foot of flag per linear foot of the front lot line.
 - (4) *Name and address signs* :
 - a. Letters or numerals shall be no more than six inches in height;
 - b. Each name and address sign shall not to exceed two square feet in sign area;
 - c. Every building shall display an address sign that is clearly visible from the street;

EXHIBIT 1

- d. Buildings that have rear door access to an alley or parking lot shall also display an address sign that is clearly visible from the alley or parking lot; and
 - e. See additional regulations per zoning district, as provided in section 30-508, "Sign regulations by zoning district."
- (5) *Noncommercial signs* :
- a. Not to exceed a cumulative total area of:
 - 1. Four square feet per residential property; and
 - 2. Sixteen square feet per non-residential property or business establishment; and
 - b. Additional temporary noncommercial signage shall be allowed for the 90 days prior to and seven calendar days following any Federal, State of Florida, Broward County, or Town election, not to exceed:
 - 1. Three square feet per sign, but not to exceed a cumulative total of 12 additional square feet per frontage (street or waterway) in residential districts;
 - 2. Twelve square feet per sign, but not to exceed a cumulative total of 21 square feet per frontage (street or waterway) in commercial zoning districts.
 - 3. All noncommercial signage permitted by this subsection above shall count as one temporary sign.
- (6) Warning or danger signs, no larger than four square feet in size, up to a cumulative maximum of 16 square feet per property;
- (7) *Real estate sign*:
- a. Real estate signs located in residential zoning districts shall be no larger than three square feet;
 - b. Real estate signs located in commercial zoning districts shall be no larger than 12 square feet.
 - c. When mounted upon the ground, with a frame or holder and post, the height of the frame or holder and post shall not exceed 48 inches in height;
 - d. Properties shall be limited to one real estate sign per street frontage and waterway and all legal temporary real estate signs on a single property shall count as one temporary sign;
 - e. One additional real estate sign only when the premises are available for inspection by the prospective buyer or tenant. Said additional attached sign shall not be larger than eight inches in width nor 24 inches in length and may only be posted on private property with the permission of the property owner;
 - f. Real estate signs shall be removed within seven days of the property closing or the listing contract expiring.
- (8) Lettering or numbering applied to parking space wheel stops.

(Ord. No. 2012-04, § 2, 3-27-2012; Ord. No. 2013-07, § 2, 8-20-2013; Ord. No. 2014-10, § 2, 10-28-2014; Ord. No. 2015-21, § 2, 12-8-2015)

Sec. 30-503. - Permitted signs.

The following types of permanent signs may be erected, installed, repaired or replaced within the Town, only in conformance with these regulations and after issuance of a permit by the Development Services Department:

EXHIBIT 1

- (a) Building or development identification signs;
- (b) Cabinet signs;
- (c) Canopy and awning signs;
- (d) Changeable copy signs;
- (e) Directory sign;
- (f) Hanging signs;
- (g) Informational, wayfinding, directional and traffic control signs;
- (h) Monument signs;
- (i) Name and address signs, not otherwise exempt;
- (j) Neon signs;
- (k) Painted signs;
- (l) Pole signs;
- (m) Pylon signs;
- (n) Roof signs;
- (o) Subdivision and residential development identification signs;
- (p) Wall signs; and
- (q) Window signs.

(Ord. No. 2012-04, § 2, 3-27-2012; Ord. No. 2013-07, § 2, 8-20-2013; Ord. No. 2015-21, § 2, 12-8-2015)

Sec. 30-504. - Temporary signs.

The following signs may be permitted within the Town as temporary signs, only in conformance with these regulations and after issuance of a temporary sign permit by the Development Services Department.

- (a) One sign, for properties with an active building permit or site plan, provided such sign:
 - (1) Shall not exceed six square feet in size in single family and duplex zoning districts;
 - (2) Shall not exceed 16 square feet in size in all other districts;
 - (3) May be displayed for a period not to exceed 12 months, subject to the following:
 - a. Such sign may be placed anytime from the date of approval of a site plan by the Town Commission or the issuance of a building permit when no site plan approval is required, and must be removed upon the expiration of the 12 months, the issuance of the certificate of occupancy or the permit expiration, whichever is sooner; and
 - b. Such sign obtained pursuant to a site plan must be removed if a building permit is not obtained within six months of the approval;
- (b) One temporary sign, not exceeding 32 square feet, for a non-residential use, subject to the following:
 - (1) A permit shall not be issued more than four times per year for the same use; and
 - (2) Each sign must be removed 21 days after it is posted.
- (c) A temporary sign may be a banner, freestanding, wall or window sign; and

EXHIBIT 1

- (d) A temporary sign shall be set back at least five feet from any property line.

(Ord. No. 2012-04, § 2, 3-27-2012; Ord. No. 2013-07, § 2, 8-20-2013; Ord. No. 2015-21, § 2, 12-8-2015)

Sec. 30-505. - Prohibited signs.

Any sign found posted or otherwise affixed upon any public property contrary to the provisions of this article shall be removed by the Town and stored up to 30 days upon which the sign(s) will be discarded if not claimed by the owner. The person responsible for any such posting shall be liable for the cost incurred in the removal and storage thereof, and the Town is authorized to effect the collection of said cost.

The following types of signs are expressly prohibited within the Town:

- (a) Animated or flashing signs;
- (b) Any sign not listed elsewhere in these regulations as an exempt, permitted or temporary sign;
- (c) Balloon signs;
- (d) Billboards/off-premises signs;
- (e) Electronic signs;
- (f) Internally illuminated, transparent or translucent awnings or canopies used as signs;
- (g) Murals;
- (h) Permanent banner signs;
- (i) Portable moving signs;
- (j) Private signs of any type placed upon Town property or upon public right-of-way;
- (k) Sandwich signs;
- (l) Signs placed upon fences, benches, trash receptacles, newsracks or posted on a tree;
- (m) Signs placed on any portion of the public beach;
- (n) Signs that do not meet the design, material and fabrication requirements of this article;
- (o) Signs that produce or emit any type of sound or odor;
- (p) Signs that could possibly be mistaken as traffic control signs/devices thereby creating a safety hazard;
- (q) Signs with unshielded lighting elements, except neon signs;
- (r) Snipe signs;
- (s) Stationary vehicle or trailer signs; and
- (t) Streamers, spinners, and feather signs.

(Ord. No. 2012-04, § 2, 3-27-2012; Ord. No. 2013-07, § 2, 8-20-2013; Ord. No. 2015-21, § 2, 12-8-2015)

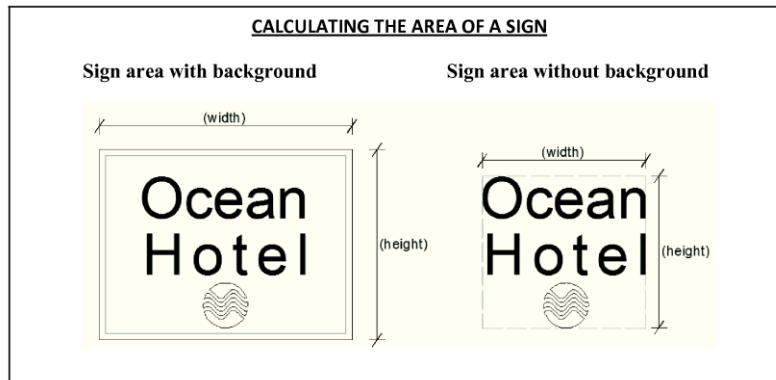
Sec. 30-506. - General design standards.

Illustrations are shown to provide interpretative assistance. In the event of a conflict between the text and an illustration, the text shall prevail.

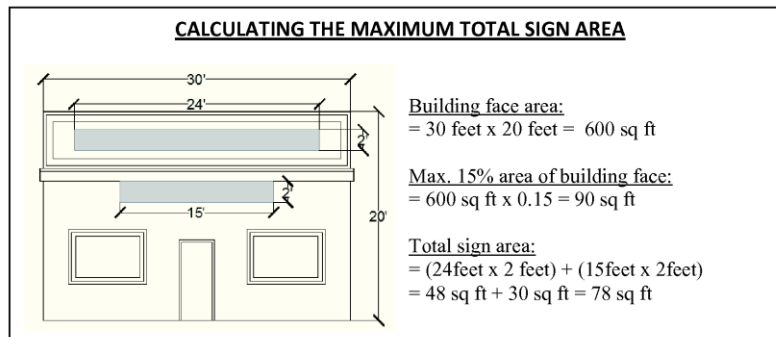
EXHIBIT 1

(a) *Area and height measurements.*

- (1) *Calculating the area of a sign when the sign contains a defined background:* The sign area is calculated by determining the total number of square feet, including the surface of the sign, which may include text, copy, symbols and corporate logos, and any framing, trim or molding that is definable as the sign background, but not including the supporting structure.
- (2) *Calculating the area of a sign when the sign does not contain a defined background:* The sign area is calculated by determining the total number of square feet of the smallest area of a square or rectangle encompassing all of the text, copy, symbols and corporate logos displayed on a sign.



- (3) *Calculating the area of a double-faced sign:*

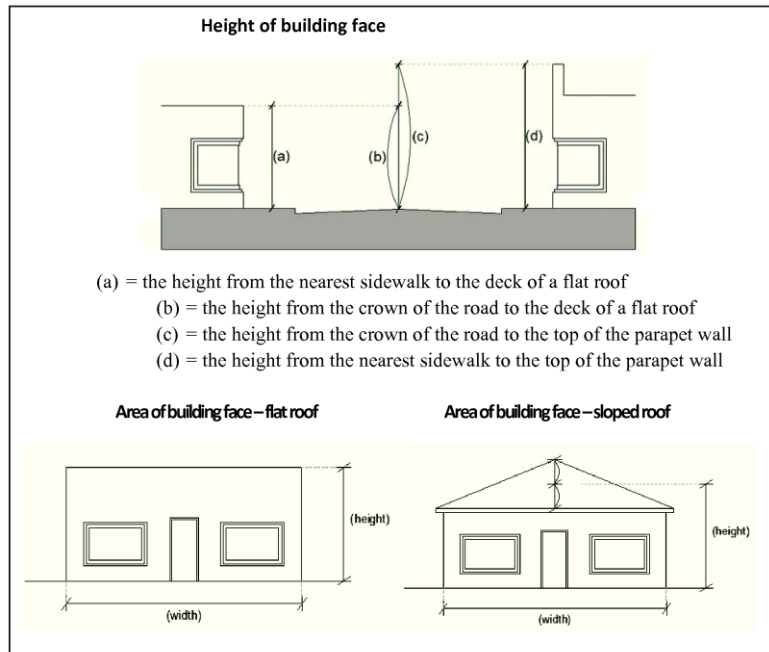


In determining the sign area of a double-faced sign, which is a sign with identical faces mounted on opposite and parallel sides of the same sign, only one of the two identical faces shall be used to calculate the sign area.

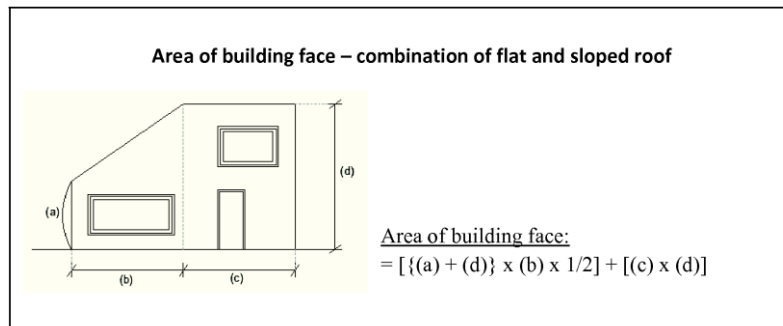
- (4) *Calculating the area of a building face :* The area of a building face shall be determined by multiplying the height of the building face by the width of the building face. In order to determine the area of a building face, the height of the building face shall be measured as follows:
 - a. In no case shall the total sign area of all signs attached to the wall, canopy and/or awnings of a building face exceed 15 percent of the area of that building face.
 - b. In the case of a building with a flat roof, the height of the building face shall be measured from the elevation of the nearest sidewalk or crown of the road, whichever is higher, to either the deck of a flat roof or the top of the parapet wall, whichever is higher.

EXHIBIT 1

- c. In the case of a building with a sloped roof, the height of the building face shall be measured from the elevation of the nearest sidewalk or crown of the road, whichever is higher, to the midpoint of a sloped roof.



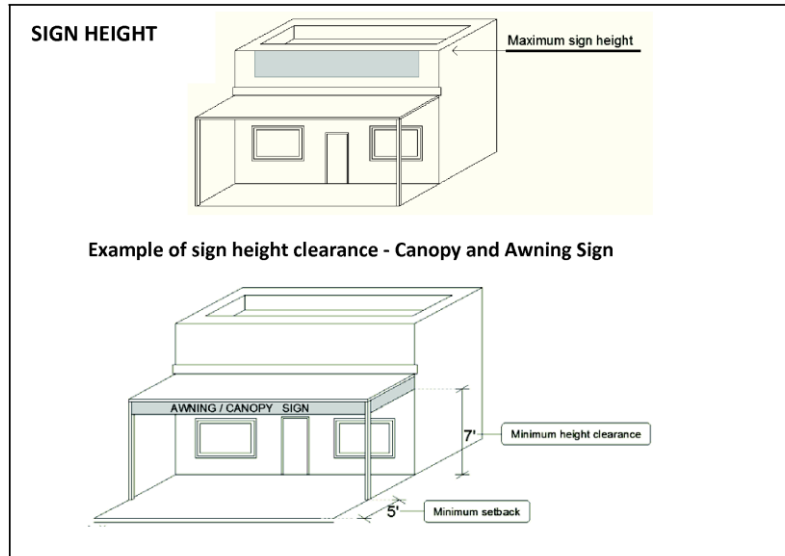
- d. In the case of a building with a combination of flat roof and sloped roofs, the height of the building face shall be measured for each area of roof type as described in subsections (4)b. and c. above, and the area of the building face shall be the combined sum as calculated for each portion of the building face.



(5) Sign height and sign height clearance :

- a. The height of a sign shall be measured from the elevation of the nearest sidewalk or crown of the road, whichever is higher, to the highest point of the sign area.
- b. The maximum height of a sign and the minimum height clearance of a sign shall be as specified in section 30-507, "Restrictions and standards by sign type," and section 30-508, "Sign regulations by zoning district."

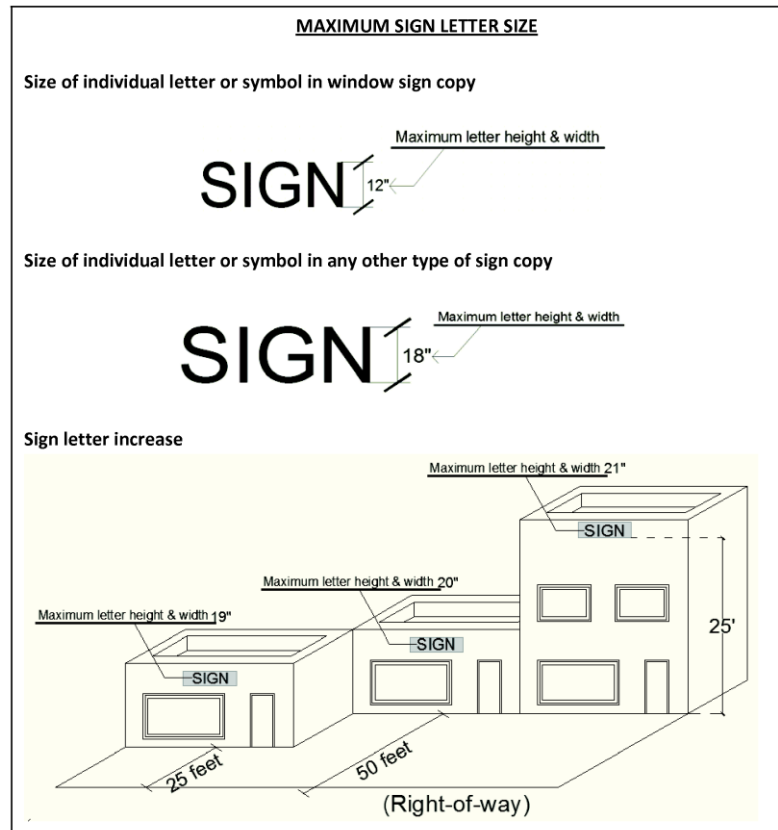
EXHIBIT 1



(6) *Maximum sign letter size.*

- a. The size of an individual letter or symbol in any type of sign copy shall not exceed 12 inches in height or width for businesses located east of North Ocean Drive (does not include businesses facing North Ocean Drive) and 18 inches in height or width for businesses located west of or facing North Ocean Drive, except that:
 1. The sign letter size may be increased by one inch for each 25 feet that the sign is set back from nearest street right-of-way; and
 2. The sign letter size may be increased by one inch for each 25 feet that the sign is mounted above the elevation of the nearest sidewalk or crown of the road, whichever is higher. (For example, the lettering may be one inch larger if the sign is posted at 25 feet above the crown of the road or sidewalk, and two inches larger if the sign is posted at 50 feet above the crown of the road or sidewalk.)

EXHIBIT 1



(b) *Construction.*

- (1) All permanent signs shall be constructed of durable, weather-resistant and fade-resistant materials. All permanent, temporary and exempt signs shall be professionally constructed or manufactured.
- (2) All permanent signs, except those on single-family and duplex lots, shall be installed by a licensed contractor.
- (3) All permanent signs shall be constructed and installed to conform to the requirements of the building code.
- (4) All temporary signs shall be constructed and installed in a workman-like manner, shall not pose any safety hazard, and shall be removed upon the expiration of the temporary sign permit or upon the issuance of a severe weather warning.
- (5) A separate electrical permit is required for any illuminated sign.
- (6) Stenciled signs are permitted for use as permanent signs.
- (7) Professionally painted signs that are applied directly to the window, wall of a building face, canopy or awning are permitted.

(c) *Colors.*

- (1) No florescent, phosphorescent, iridescent or reflective colors or paint may be used in any sign, except governmental informational, directional, traffic control or warning signs.
- (2) Letters and numerals contained within the sign area of each individual sign shall be limited to no more than three colors.
- (3) White shall not be counted as a color when used as the background of the sign.

EXHIBIT 1

- (4) All permanent signs on the same building shall use the same color scheme.
 - (5) Sign color(s) shall be compatible with the color(s) of any building or wall upon which the sign is mounted.
 - (6) Trademarks are exempt from the color requirements of this article. An applicant must file a color copy of the registered trademark with the sign permit application to qualify for this exemption.
 - (7) Any freestanding sign shall utilize the same color scheme of the building to which it is related.
 - (8) The actual color samples to be used, as well as written authority from the landlord or agent (unless applicant is owner) to use the submitted colors and layout, must accompany all permit applications.
- (d) *Layout.*
- (1) The size, location, and style of permanent signs, excluding window signs, shall be compatible with the buildings or locations where they are placed.
 - (2) Multiple signs of the same type for the same business and on the same building shall be consistent in terms of style.
 - (3) During the site plan review process, hotel, motel, business, apartment buildings, condominiums and institutional buildings shall be designed to incorporate locations for wall signage meeting the requirements of these regulations as part of the overall design of the building. Signs shall be reviewed, all code requirements met, and sign permits obtained prior to placement of any signs on the premises.
- (e) *Sign and building illumination.*
- (1) Illuminated signs may be indirectly or internally illuminated.
 - (2) All lighting elements or bulbs for signs and/or buildings which are visible from any other public or private property must be fully recessed or shielded within opaque or translucent covers.
 - (3) Wooden signs shall not be internally illuminated nor have electrical fixtures attached directly to the sign panel.
 - (4) The intensity of illumination shall be limited to no more than 90 foot lamberts or ten foot-candles within residential districts or if visible within 200 feet from first floor residential property.
 - (5) The intensity of illumination shall be limited to no more than 150 foot lamberts or 25 foot-candles if visible within 200 to 500 feet from first floor residential property.
 - (6) The intensity of illumination shall be limited to a maximum of 250 foot lamberts or 50 foot-candles within non-residential districts.
 - (7) All transformer boxes, outlets and conduits relating to sign illumination shall be screened from exterior view.
 - (8) A separate electrical permit is required for any sign illumination.
 - (9) Architectural lighting designed to illuminate building walls, architectural features or landscaping is not regulated as a sign.
- (f) *Prohibiting location of signs in sight visibility triangles and in utility or drainage easements.* No sign shall be located within any utility or drainage easement, or within any sight visibility triangle or safe recovery area for a street.

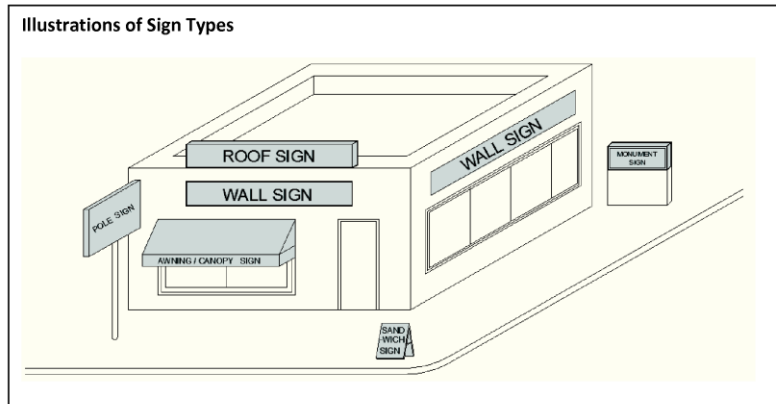
EXHIBIT 1

(Ord. No. 2012-04, § 2, 3-27-2012; Ord. No. 2013-07, § 2, 8-20-2013; Ord. No. 2014-10, § 2, 10-28-2014; Ord. No. 2015-21, § 2, 12-8-2015)

Sec. 30-507. - Restrictions and standards by sign type.

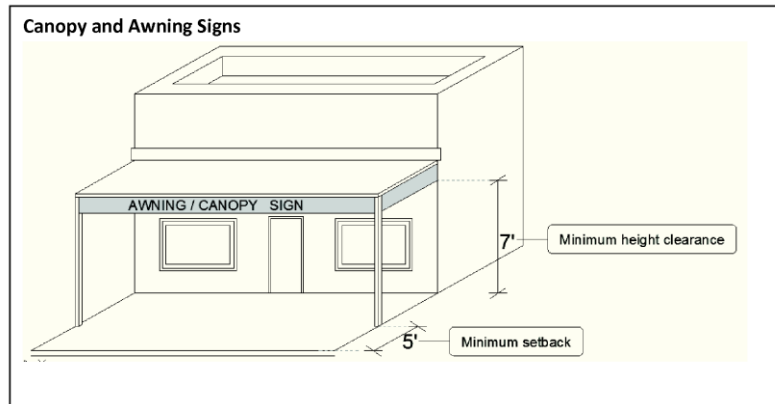
Illustrations are shown to provide interpretative assistance. In the event of a conflict between the text and an illustration, the text shall prevail.

This section is intended to be used in conjunction with all of the applicable sign regulations and standards provided in this article VIII, sign regulations.

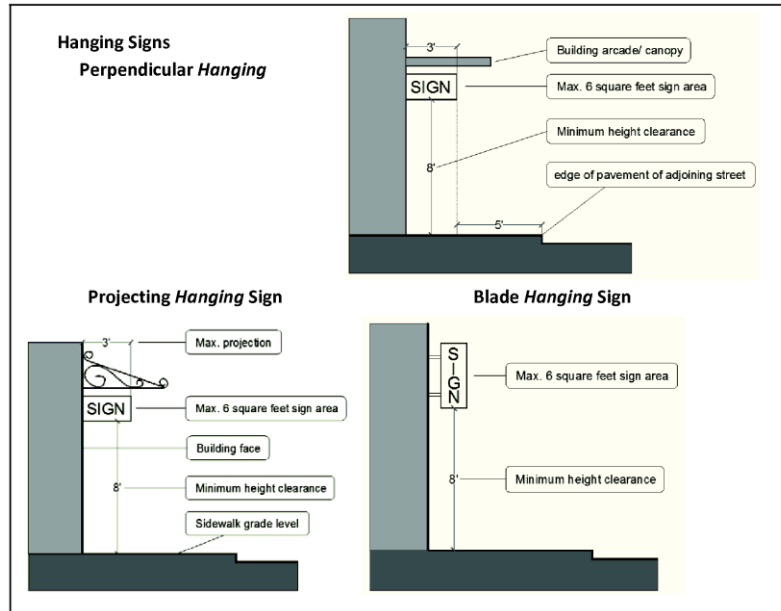


- (a) *[Reserved.]*
- (b) *Awning sign.* See "Canopy and awning sign."
- (c) *Canopy and awning sign.*
 - (1) Signs placed upon awnings may consist of fabric, thermally applied letters or they may be professionally painted;
 - (2) Signs on canopies and/or awnings are counted toward permitted wall signage;
 - (3) Internally illuminated, transparent or translucent canopies and awnings used as signs are prohibited;
 - (4) Any canopy or awning must be fire-proofed;
 - (5) Any canopy or awning shall have at least seven feet of clearance above the sidewalk;
 - (6) Any canopy or awning shall be set back at least five feet from the edge of pavement of the adjoining street; and
 - (7) Any canopy or awning must comply with section 30-326 of the Code of Ordinances prior to applying for a sign permit.

EXHIBIT 1



- (d) *Development.* See "New development and redevelopment."
- (e) *Directory sign.*
 - (1) A directory sign may use changeable copy;
 - (2) Freestanding directory signs erected after March 27, 2001, shall not exceed six feet in height, including the support structure;
 - (3) Any directory sign shall not exceed 32 square feet in size; and
 - (4) A freestanding directory sign shall be set back at least five feet from any street right-of-way.
- (f) *Hanging sign.*
 - (1) One hanging sign is permitted for each business use located in a multitenant building;
 - (2) One hanging sign is permitted for each non-residential use in a freestanding building;
 - (3) A hanging sign may be attached to any portion of a building; however, in no case shall the hanging sign project greater than three feet from the building face that it is attached perpendicular to;
 - (4) If there is less than one foot of private property adjacent to and outside the primary entrance to the building, then a hanging sign may extend over a public sidewalk, but shall have at least eight feet of vertical clearance above the sidewalk and the property owner must obtain a right-of-way encroachment permit approval prior to applying for a sign permit;
 - (5) Any hanging sign shall be set back at least five feet from the edge of pavement of the adjoining street;
 - (6) A hanging sign shall not be located in such a manner that the highest point of the sign area exceeds 18 feet as measured from the nearest sidewalk or crown of the road, whichever is higher;
 - (7) A hanging sign that is double-faced shall have two identical sign faces;
 - (8) The sign area of a hanging sign shall be a maximum of six square feet; and
 - (9) Perpendicular signs, projecting signs, and blade signs are subject to the regulations for hanging signs.

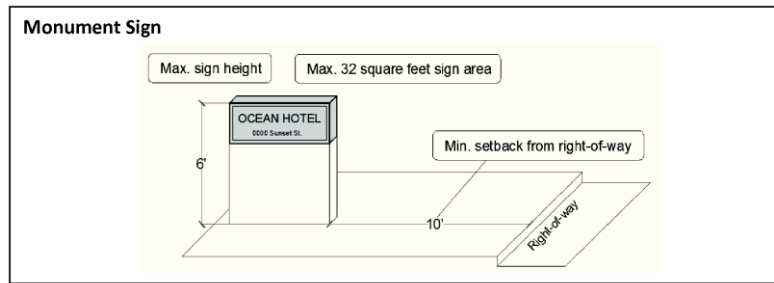


(g) *Monument identification sign.*

- (1) Monument identification signs south of Pine Avenue, and all such signs in the RM-50 district, shall comply with the following standards in addition to the standards in paragraph (3):
 - a. One monument identification sign with one or two faces, is permitted per street frontage, when located on a plot with 200 feet or greater of continuous frontage on the same street;
 - b. A monument sign shall not exceed six feet in height or 32 square feet in sign area and shall be set back at least ten feet from any public street right-of-way.
- (2) Monument identification signs north of Pine Avenue in the RM-15, RM-16 and RM-25 districts shall comply with the following standards in addition to the standards in paragraph (3):
 - a. *Sign structure.* The supporting structure of a monument sign shall not be less in width than 20 percent of the width of the sign face, inclusive of any box, cabinet or frame. The supporting structure for sign faces, inclusive of any box, cabinet or frame, which are less than nine feet in width, may be less than 20 percent of the width of the sign face but not less than 18 inches. No copy shall be permitted on the supporting structure other than the building address.
 - b. *Minimum clearance.* All monument signs having a supporting structure less in width than the sign face, inclusive of any box, cabinet, border or frame, shall maintain a minimum vertical clearance of eight feet, except that such signs eight feet in height or less shall maintain a maximum vertical clearance of three feet. Vertical clearance shall be measured from the sidewalk adjacent to the sign or, in the absence of sidewalks, measured from the crown of the right-of-way adjacent to the sign, to the bottom of the box, cabinet, border or frame of the sign face.
- (3) All monument identifications signs shall comply with the following requirements:
 - a. No monument sign may be placed within 30 feet of a street intersection or in any location that would obstruct cross-visibility at a driveway intersection or would obstruct cross-visibility for back-out parking; and

EXHIBIT 1

- b. A monument sign shall be perpendicular to the ground and may be perpendicular or parallel to the primary building façade.



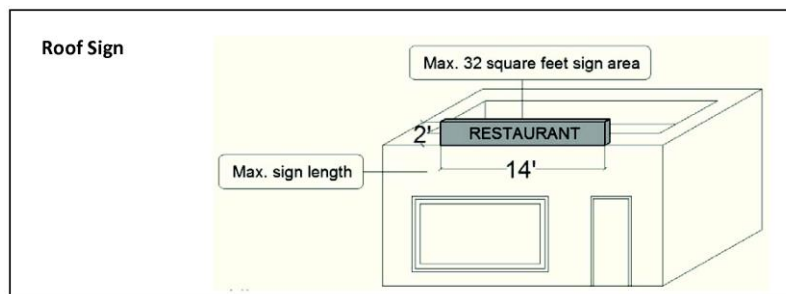
- (h) *Neon signs.* Neon signs are permitted only in the B-1-A and B-1 zoning districts and for mid-century modern style neon signs in the RM-25 district, subject to the following restrictions:
- (1) A business shall be allowed to have up to a maximum of three neon signs per street frontage, one of which may be an exterior sign;
 - (2) Neon signs in RM-25 zoning district must be of a mid-century modern style and consistent with section 30-9 and the Town ADS;
 - (3) Neon signs may remain illuminated only during the business hours of the business, or 10:00 p.m., whichever is later.
 - (4) Window neon signs shall also be subject to the following regulations:
 - a. No neon window sign may exceed four square feet unless it is an identification sign;
 - b. The total area of the neon window signs shall not exceed the lesser of 12 square feet or 25 percent of the area of the total window space on the street frontage.
- (i) *Pole sign or pylon sign.*
- (1) Any new pole or pylon sign permitted within the RM-25 and RM-50 zoning districts, shall meet the criteria for pole or pylon signs as provided below:
 - a. The sign area of a pole or pylon sign shall not exceed 32 square feet in size;
 - b. There shall be no more than one pole or pylon sign per street frontage per property;
 - c. All pole and pylon signs shall be set back at least five feet from any property line or right-of-way;
 - d. The setback required for a pole or pylon sign shall be measured from whichever portion of the pole, pylon, or sign area is closest to the property line;
 - e. Any pole sign located within 30 feet of a street intersection or within 15 feet of the intersection of a parking space and a driveway or street shall maintain seven feet of clearance between the ground and the bottom of the sign area;
 - f. No pylon sign may be placed within 30 feet of a street intersection or in any location that would obstruct cross-visibility at a driveway intersection or would obstruct cross-visibility for back-out parking;
 - g. The support poles of pole signs shall not exceed a width or diameter of 18 inches;
 - h. Pylon signs shall be limited to one pylon with a width or diameter not to exceed four feet; and
 - i. The height of the top of a pole or pylon sign shall not exceed 15 feet above the crown of the nearest street.

EXHIBIT 1

- (2) Replacement of legal, nonconforming pole and pylon signs in any district shall be in conformance with section 30-511, "Nonconforming signs."

(j) *Roof sign.*

- (1) Roof signs shall not be permitted if either wall or awning signs can be placed upon a building;
- (2) New development and redevelopment shall not be permitted to erect or maintain roof signs. No roof signs are permitted on any property with a pole or pylon sign;
- (3) No roof sign shall exceed 32 square feet in size, four feet in height vertically or 14 feet in length;
- (4) Roof signs shall be mounted on the parapet wall of a flat roof or on a solid supporting panel on a sloped roof;
- (5) Roof signs shall not be mounted on visible poles or brackets; and
- (6) Multiple roof signs on the same building shall be the same design, size, shape and color.



(k) *Subdivision and residential development identification sign.*

- (1) Subdivision and residential development identification signs shall not exceed six feet in height or 32 square feet in sign area per sign face;
- (2) One two-face sign may be permitted in the median of a divided entrance or one single-face sign shall be permitted on each side of a street entrance to a named residential neighborhood or of a street-type driveway entrance to a multi-family development;
- (3) The sign shall not be located within any utility or drainage easements; and
- (4) All proposed subdivision and residential development identification signs shall be subject to site plan approval pursuant to article IV of the Land Development Code.

(l) *Wall sign.*

- (1) In districts where permitted, each principal building shall be allowed one wall sign on each wall facing a public vehicular use area;
- (2) A commercial building located within the B-1-A or B-1 zoning district that has a building wall facing a private vehicular use area located on a side of the building other than its primary lot frontage, may be allowed up to three additional wall signs ("end signs") (no more than one per tenant) provided the building wall is not facing a single or multifamily residential use. End signs must be for uses within the building. The cumulative total of the end signs shall not exceed 16 square feet which sign area shall not be included in the total building signage;
- (3) A single tenant commercial use building located in the B-1-A or B-1 zoning districts may combine a permitted wall sign and building identification sign into a single wall sign not exceeding 48 square feet in sign area;

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- (4) All wall signs shall be within six inches off the wall or façade upon which it is mounted, unless the sign incorporates mid-century modern architectural style features;
 - (5) The wall sign shall be an integral part of the façade composition and be consistent with the building's architecture;
 - (6) The building wall may serve as the sign background; and
 - (7) A building wall sign may be front lit, back lit, or internally lit.
- (m) *Window sign.*
- (1) No more than three window signs of any type shall be displayed in any single window;
 - (2) A bulletin board, displayed inside a window, and upon which several notices, advertisements, specials, listings and the like are posted, shall be considered a single window sign;
 - (3) Window signs shall not obstruct more than 25 percent of the total area of the window within which the window signage is placed;
 - (4) Merchandise in display windows shall not be considered window signs;
 - (5) Customary tags and labels not exceeding 15 square inches each in size on merchandise in display windows shall not be considered window signs;
 - (6) Neon window signs shall be counted toward the total number and total area permitted for window signs, and subject to the regulations for window signs as provided herein; and
 - (7) When located in the CF or P zoning district, window signs shall be restricted to one window sign per street frontage, and shall be placed in first floor windows only.
- (n) *Corporate logo/trademark.* A corporate logo or trademark can be used in any sign type, provided no individual letter within the corporate logo/trademark exceeds the maximum sign letter size as provided in section 30-506(a)(6).

(Ord. No. 2012-04, § 2, 3-27-2012; Ord. No. 2013-07, § 2, 8-20-2013; Ord. No. 2014-10, § 2, 10-28-2014; Ord. No. 2015-21, § 2, 12-8-2015; Ord. No. 2017-12, § 2(Exh. A), 11-14-2017)

Sec. 30-508. - Sign regulations by zoning district.

- (a) *RS-4, RS-5 and RD-10 districts.* Only the following types of signs are permitted within the RS-4, RS-5 and RD-10 zoning districts, subject to the limitations and requirements contained in the definitions and restrictions and standards by sign type and the general design standards sections of these regulations, and subject to the additional limitations stated below:
- (1) Private informational, directional, and similar signs.
 - (2) Subdivision and residential development identification signs: Only if location previously approved by the Town Commission pursuant to site plan approval procedures.
 - (3) In addition, no more than two temporary signs, including any exempt temporary signs, shall be permitted on any single plot at the same time.
- (b) *RM-15, RM-16, RM-25, RM-50, and R-5 districts.* Single-family and duplex residences and plots located in the RM-25 district shall be subject to the sign regulations as listed for the RS-4, RS-5 and RD-10 districts listed above.

Only the following types of signs are permitted within the RM-15, RM-16, RM-25, RM-50 and R-5 districts, subject to the limitations and requirements contained in the definitions and restrictions and standards by sign type and the general design standards sections of these regulations, and subject to the additional limitations stated below:

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- (1) Private informational, wayfinding, directional, and similar signs.
- (2) Monument signs:
 - a. Within the RM-25 district south of Pine Avenue and within all properties zoned RM-50, one sign with one or two faces per street frontage, only on a plot with 200 or more feet of continuous frontage on the same street. Properties north of Pine Avenue within the RM-15, RM-16, RM-25, and R-5 districts having less than 200 feet of continuous frontage on the same street may have up to two signs, not to exceed five square feet in area and five feet in height.
- (3) Subdivision and residential development identification signs: Only if the location and other aspects of such signs have been previously approved by the Town Commission pursuant to site plan approval procedures.
- (4) In addition, each multi-family or non-residential use:
 - a. May display no more than two of the following permanent signs, with a combined total sign area of not more than 32 square feet, per street frontage:
 1. *Building or development identification signs* : One sign per building per street frontage, with a sign height no greater than 35 feet.
 2. *Canopy or awning signs* : With a sign height no greater than 18 feet.
 3. *Hanging sign* : One sign per building per street frontage, with a sign height no greater than 18 feet.
 4. *Changeable copy signs* : One sign per street frontage, with a sign height no greater than 18 feet.
 5. *Pole or pylon signs* : Limited to hotels, motels, apartment buildings and condominiums only, with no more than one sign per street frontage per property.
 6. *Wall signs* : With a sign height no greater than 35 feet.
 - b. The total sign area of all signs attached to the wall, canopy and/or awnings of a building face shall not exceed 15 percent of the area of the building façade.
 - c. If a hotel or motel takes over an adjoining hotel or motel, then the combined hotel or motel is entitled to 16 additional square feet of separate wall or awning sign area; the existing signs shall not be increased in size by this additional footage.

Example for subsection 30-508(b)(4)c.:

Hotel A = is allowed a maximum of 32 square feet wall/awning sign

Hotel B = is allowed a maximum of 32 square feet wall/awning sign (and adjoins hotel A)

If hotel A takes over hotel B, then maximum total signage allowed for the two combined hotels = 32 square feet + 16 square feet = 48 square feet total.
- (5) In addition, no more than two temporary signs, including any exempt temporary signs, shall be permitted on any single business at the same time.
- (6) Each hotel or motel is permitted one sign on a door, column, wall, pole/pylon sign, or interior side of a window, not to exceed three square feet. Any window sign under this section shall count toward the 25 percent window coverage maximum.
- (c) *B-1 and B-1-A districts*. Only the following types of signs are permitted within the B-1 and B-1-A districts, subject to the limitations and requirements contained in the definitions and restrictions and standards by sign type and the general design standards sections of these regulations, and subject to the additional limitations stated below:

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- (1) *Building or development identification signs* : One sign per building per street frontage with a sign area of no more than 32 square feet and with a sign height no greater than 35 feet.
- (2) *Monument signs* : One sign with one or two faces per street frontage, only on a plot with 200 or more feet of continuous frontage on the same street.
- (3) Private informational, wayfinding, directional, and similar signs.
- (4) *Window signs* : No more than three window signs per window, placed in first floor windows; in second floor windows, only one window sign for each business which has its entrance from the second floor or a stairway only.
- (5) In addition, each office building, separate storefront business, or other non-residential use:
 - a. May display no more than two of the following permanent signs, with a combined total sign area of not more than 32 square feet per street frontage, and the total sign area of all signs attached to the wall, canopy and/or awnings of a building shall not exceed 15 percent of the area of the building façade, except as otherwise permitted for wall signs as provided herein:
 1. *Canopy or awning signs*: With a sign height no greater than 18 feet.
 2. *Changeable copy signs*: With a sign height no greater than 18 feet.
 3. *Directory signs*: One sign per street frontage for a multi-tenant office, multi-tenant retail or governmental building only.
 4. *Hanging signs*: With a sign height no greater than 18 feet.
 5. *Roof signs*: Only when wall or awning signs are not feasible, and not if a legal nonconforming pole or pylon sign exists on the same property.
 6. *Wall signs*:
 - i. With a sign height no greater than 35 feet.
 - ii. A commercial building located within the B-1-A or B-1 zoning district that has a building wall facing a private vehicular use area located on a side of the building other than its primary lot frontage, may be allowed up to three additional wall signs ("end signs") (no more than one per tenant) provided the building wall is not facing a single or multifamily residential use. End signs must be for uses within the building. The cumulative total of the end signs shall not exceed 16 square feet which sign area shall not be included in the total building signage.
 - iii. A single tenant building may combine a permitted wall sign and building identification sign into a single wall sign not exceeding 48 square feet in sign area.
 - b. Multiple businesses occupying a single storefront bay must share the permitted total number and sign area of signs.
 - c. If a store front business takes over the entire adjoining store front space vacated by another business, then that new business is entitled to either 16 additional square feet of wall or awning sign area, or if the store front business is taking over an entire adjoining store front space vacated by another business, the new business may use the existing roof signage that the old business used provided that the structure of the roof sign is not altered.

Example for [subsection] 30-508(c)(5)c.:

Business A = is allowed a maximum of 32 square feet wall/awning sign

Business B = is allowed a maximum of 32 square feet wall/awning sign (and is located in a store front space adjoining business A)

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If business A takes over business B, then maximum total signage allowed = 32 square feet + 16 square feet = 48 square feet.

- (6) In addition, no more than two temporary signs, including any exempt temporary signs, shall be permitted on any single business at the same time.
- (7) Each non-residential use is permitted one sign on a door, column, wall, interior side of a window, or podium, not to exceed three square feet. Any window sign under this section shall count toward the 25 percent window coverage maximum.
- (d) *CF and P districts.* Only the following types of signs are permitted within the CF and P districts, subject to the limitations and requirements contained in the definitions and restrictions by sign type and the general design standards sections of these regulations, and subject to the additional limitations stated below:
 - (1) Private informational, wayfinding, directional, and similar signs.
 - (2) *Monument signs:* One sign with one or two faces per street frontage, only on a plot with 200 or more feet of continuous frontage on the same street.
 - (3) *Window signs:* One window sign per street frontage, placed in first floor windows only.
 - (4) In addition, each building may display no more than two of the following permanent signs, with a combined total sign area of not more than 32 square feet per street frontage, and the total sign area of all signs attached to the wall, canopy and/or awnings of a building shall not exceed 15 percent of the area of the building façade.
 - a. *Building or development identification signs:* With a sign height no greater than 35 feet.
 - b. *Canopy or awning signs:* With a sign height no greater than 18 feet.
 - c. *Directory signs:* For a multi-tenant building only, and with a sign height no greater than 12 feet.
 - d. *Hanging signs:* With a sign height no greater than 18 feet.
 - e. *Changeable copy signs:* With a sign height no greater than 18 feet.
 - f. *Wall signs:* With a sign height no greater than 35 feet.
- (5) In addition, no more than two temporary signs, including any exempt temporary signs, shall be permitted on any single plot at the same time.

(Ord. No. 2012-04, § 2, 3-27-2012; Ord. No. 2013-07, § 2, 8-20-2013; Ord. No. 2014-10, § 2, 10-28-2014; Ord. No. 2015-21, § 2, 12-8-2015; Ord. No. 2017-12, § 2(Exh. A), 11-14-2017)

Sec. 30-509. - Administration and permits.

- (a) These sign regulations shall be administered by the Development Services Department. No sign of any kind (except exempt signs) shall be erected, installed, repaired or replaced within the Town until a permit for such sign or work has been issued by the Development Services Department. Prior to the issuance of a sign permit for any sign, the application for a sign permit shall be reviewed and approved by the Development Services Department.
- (b) *Permits.* Sign applications shall be on forms promulgated by the Town and shall include sufficient information to ensure complete review of the application. Rules regarding sign application information shall be promulgated by the Town Manager or designee. The application for a permit for a sign shall be accompanied by two copies of the following:
 - (1) Address and legal description of the property upon which the sign is to be placed;
 - (2) Name and address of the owner of the property upon which the sign is to be placed;

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- (3) Written permission of the owner of the property to erect or place the proposed sign;
 - (4) A drawing or sample of the proposed sign, to scale, showing the dimensions, letter size, colors, materials, structural support, and lighting, if any;
 - (5) If lighting is proposed, information regarding the type, intensity and if applicable, Kelvin temperature of the proposed illumination to document compliance with the sign illumination restrictions of these regulations;
 - (6) A plan showing the proposed location on the ground or building and the mounting height of the proposed sign, along with a color photograph of the proposed location;
 - (7) The cost or value of the proposed sign; and
 - (8) Any other plans or information required by the Development Services Department for any related structural permit or electrical permit.
- (c) *Application review.* Upon submission of an application, the Development Services Department shall review and evaluate the application as follows:
- (1) No application shall be accepted until it is deemed complete by the Department.
 - (2) The Department shall review all of the information submitted to determine conformity with this article and applicable sections of the Florida Building Code, including the location of the proposed sign.
 - (3) The submitted application will be reviewed within 20 business days and any corrections, revisions or deficiencies provided to the applicant within that 20-day period.
 - (4) Upon each re-submittal of corrected plans, the Department shall have ten business days to review the application and provide any corrections, revisions or deficiencies to the applicant. This process shall continue until the applicant has submitted a complete application or demands that the application be reviewed as is, without further revisions.
 - (5) If an applicant fails to provide additional information as requested by the Department within two months of the request or respond to the Department with a time when the information will be submitted, the application shall be deemed to be withdrawn by the applicant. The applicant shall be entitled to one 60-day extension upon request, providing the request for extension is granted prior to the expiration of the two-month period.
 - (6) The Department shall approve or deny the sign permit within ten business days of receipt of the complete application or the applicant's demand for review as submitted, based on whether it complies with the requirements of this article. The Department shall prepare a written notice of the decision, either in the form of an approved sign permit or written notice of denial, describing the applicant's appeal rights, and provide such written notice to the applicant of its decision within the ten-day period.
- (d) *No right to appeal.* Except when Commission approval is required pursuant to the Code, the decision of the Development Services Department for the issuance or denial of a sign permit shall be final. There shall be no right of appeal to the Town Board of Adjustment or Town Commission of a finding of the Development Services Department. The appellant may seek relief in the Circuit Court for Broward County, or as otherwise provided by law.

(Ord. No. 2012-04, § 2, 3-27-2012; Ord. No. 2013-07, § 2, 8-20-2013; Ord. No. 2015-21, § 2, 12-8-2015)

Sec. 30-510. - Landmark and mid-century modern signs.

- (a) *Landmark signs.* The Town Commission may, following a public hearing, grant a waiver of the Town Code related to signage for a landmark business upon a finding that the waiver requested or approved is the minimum waiver necessary to provide for signage consistent with, but not

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necessarily identical to, signage historically utilized in the Town which maintains the landmark identity and character of the business and Town.

- (1) A business may be designated as a landmark business by the Town Commission following a public hearing.
 - (2) The designation of a landmark is a function of not just a building, but the business within that building that has created a unique sense of place that is significant and prominent in the identity and history of the Town. A landmark business designation is unique to the designated business at the designated location. Neither the business nor the location independently shall be considered a landmark business.
 - (3) The Town Commission may designate by resolution a business as a landmark business upon application by the business owner and consideration of the following factors:
 - a. History of operation for a minimum of 35 years at the same location; and
 - b. Establishment of an identity and business awareness of such character and reputation as to be considered an identifiable landmark within the Town.
- (b) *Mid-century modern signs.*
- (1) *Existing mid-century modern style signs that do not meet the requirements of this article.* An application may be filed for administrative review, or with a site plan application, for the replacement of an existing mid-century modern style on-premise sign that meets the requirements of [section] 30-9 and the Town ADS but does not meet the requirements of this article, provided existing non-conformities are not increased.
 - (2) *New mid-century modern style signs.* An application may be filed for a conditional use permit or as part of a site plan application for a new mid-century modern style on-premise sign, for a mid-century modern style building, that does not meet the requirements of this article. All signs proposed on the building shall be consistent in style. As part of a conditional use or site plan review, the Town Commission may waive any of the requirements of these sign regulations upon a finding that the proposed sign complies with the mid-century modern architectural style as addressed in section 30-51, "Architectural review standards," of the Town Code and the Town's architectural design guidelines.

(Ord. No. 2012-04, § 2, 3-27-2012; Ord. No. 2013-07, § 2, 8-20-2013; Ord. No. 2014-13, § 2, 10-28-2014; Ord. No. 2015-21, § 2, 12-8-2015)

Sec. 30-511. - Nonconforming signs.

- (a) *Nonconforming signs.* The following nonconforming signs may remain and may be replaced subject to the provisions of this section.
 - (1) Any sign (or its replacement) which receives approval as a mid-century modern style sign per section 30-510;
 - (2) Nonconforming pole and pylon signs located in the B-1 district previously permitted and in continual legal existence since March 27, 1999; and
 - (3) Roof signs, subject to subsection (c) below.
- (b) *Removal of nonconforming signs.* Except as identified in subsection (a) above, any previously permitted, existing sign that does not conform to the provisions of these regulations shall be removed or brought into conformance with these regulations upon new development or redevelopment as defined in section 30-514.
- (c) *Roof signs.* Upon new development or redevelopment of a site, any existing roof signs may remain. If a building includes multiple roof signs and one is removed other than by an act of God, then all of the roof signs on the building must be removed.

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(Ord. No. 2012-04, § 2, 3-27-2012; Ord. No. 2013-07, § 2, 8-20-2013; Ord. No. 2015-21, § 2, 12-8-2015)

Sec. 30-512. - Maintenance and abandoned signs.

- (a) *Maintenance.* All signs together with its framework braces, angles or other supports, if applicable, shall be maintained in good condition and shall not show evidence of deterioration, weathering, discoloration, ripping, tearing or other holes and/or breaks.
- (b) *Abandoned signs.* A sign advertising a discontinued or closed business is prohibited and shall be removed within 30 days of the closure of said business.

(Ord. No. 2014-10, § 2, 10-28-2014; Ord. No. 2015-21, § 2, 12-8-2015)

Sec. 30-513. - Severability.

- (a) The sections, paragraphs, sentences, clauses and phrases of this article are severable, and if any phrase, clause, sentence, paragraph or section of this article shall be declared unconstitutional or void or unenforceable by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this article.
- (b) This subsection shall not be interpreted to limit the effect of subsection (a) above, or any other applicable severability provision in this Code or any adopting ordinance. The Town Commission specifically intends that severability shall be applied to sign regulations even if the result would be to allow less speech in the Town, whether by subjecting currently exempt signs to permitting or by some other means.
- (c) This subsection shall not be interpreted to limit the effect of subsections (a) or (b) above, or any other applicable severability provision in this Code or any adopting ordinance. The Town Commission specifically intends that severability shall be applied to prohibited signs so that each of the prohibited sign types listed in the Town Code in section 30-505 shall continue to be prohibited irrespective of whether another or any sign prohibition is declared unconstitutional or invalid.
- (d) This subsection shall not be interpreted to limit the effect of subsections (a), (b) or (c) above, or any other applicable severability provision in this Code or any adopting ordinance. The Town Commission specifically intends that severability shall be applied to section 30-505 of the sign regulations so that if all or any of such provisions are declared unconstitutional or invalid by the final and valid judgment of any court of competent jurisdiction, the Town Commission intends that such declaration shall not affect any other prohibition on animated, flashing or billboard signs in the aforesaid sections.

(Ord. No. 2012-04, § 2, 3-27-2012; Ord. No. 2013-07, § 2, 8-20-2013; Ord. No. 2015-21, § 2, 12-8-2015)

Sec. 30-514. - Definitions.

The terms and phrases used in this article shall have the following indicated meanings:

Address sign : A sign displaying only the numerical address and unit number or letter of the premises upon which the sign is located.

Adjoining : Located next to, bordering or contiguous.

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Animated or flashing sign : Any sign including electronic, laser, video, digital or similar displays, with elements, images, text, or colors that move, rotate, flash, change or similar movement is prohibited. A date/time and temperature indicator or barber pole is not an animated sign.

Awning sign : See "Canopy or awning sign."

Balloon sign : Any type of inflatable sign or sign suspended from a balloon.

Banner sign : A sign with or without any text, composed of fabric, vinyl or like material, affixed to a permanent pole or permanent structure by wire, string, brackets or grommets or is otherwise suspended from a building. A hanging sign is not included within the definition of a banner sign. Pennants are included within this definition of a banner sign.

Billboard : A permanent, freestanding or building-mounted sign, advertising products or services not related to the premises upon which the sign is located, is prohibited. Also referred to as off-premise sign.

Building or development identification sign: A sign used for the name and/or address of a building or development.

Cabinet sign : A sign, constructed like a box, with sign copy painted on or applied to a translucent plastic or glass face.

Canopy or awning sign : A sign that is part of, or attached to a canopy or awning or other similar protective cover.

Changeable copy sign : A sign or portion thereof with characters, letters or illustrations that can be changed or rearranged by manually removing or rearranging the characters, letters or illustrations on the physical sign.

Commercial message : Any wording, logo, emblem, character, pictograph, trademark, or symbol used to represent a firm, organization, entity, product, or service, or other representation that, directly or indirectly, names, advertises, or calls attention to a product or service. For purposes of this article, terms such as sale, special, clearance, or other words which relate to commercial activity shall be deemed to be commercial messages.

Corporate logo : See definition for "Trademark/corporate logo."

Development : See "New development and redevelopment."

Directory sign : A single or double face sign, used to identify the name of the building or development and the names and unit numbers of tenants in a multiple tenant building or development.

Electronic sign : Any type of electronic display board, electronic message board, digital, LED, programmable ink or other sign capable of displaying words, pictures, symbols, video or images including, but not limited to, any electronic, laser, digital, or projected images display that can be changed electronically or mechanically by remote or automatic means. Architectural lighting designed to illuminate building walls, architectural features or landscaping is not a sign.

Feather sign : A professionally produced temporary lightweight sign comprised of nylon, canvas, vinyl, or polyester fabric that is affixed to support structure, such as a metal pole, in such a manner that allows movement of the banner and where such sign is located outdoors. Such signs may also be referred to as "flutter," "tear drop," "flying," "wing," or "bow" signs.

Flag : Any fabric, plastic, canvas, material or bunting containing distinctive color(s), pattern(s), symbol(s), emblem(s) or insignia(s) containing noncommercial speech or used as a symbol of a government, political subdivision or other governmental entity or of any business or institutional entity or idea.

Freestanding sign : Any type of sign that is not affixed to a building.

Hanging sign : A hanging sign that is attached perpendicular to any portion of the primary building façade or attached to the underside of a building arcade or building canopy, which sign is attached by brackets, cantilevered, or suspended in some similar manner. A hanging sign may be vertical or

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horizontal in its orientation. Perpendicular signs, projecting signs, and blade signs are also included in the definition of a hanging sign.

Historical sign : An on premise sign of historical or architectural significance to the Town may be designated as a historical sign by resolution of the Town Commission and shall thereafter be exempt from all provisions of these regulations except for the requirements for maintenance and permit for reconstruction or major repair.

Identification sign : A sign used to identify the name of a residential subdivision, or non-residential development, business, organization or other non-residential occupant of a premises, and the street address. Identification signs are not used to advertise services and goods provided.

Informational, wayfinding, directional sign : An informational, wayfinding, directional sign is any sign similar to:

- (a) A noncommercial sign located on and relating to an activity on the premises upon which the sign is located, that is providing information to or is related or reasonably necessary to the movement of pedestrian and vehicular traffic on the premises, and not displaying a commercial message, e.g., "entrance," "exit," "caution" and "no trespassing", "no parking", "one-way only", and the like.
- (b) A noncommercial sign within a development, or at the entrances thereto, showing the name(s) and directions to the businesses or tenants within the development or the locations of the subdivisions comprising the development, etc.

Length : The horizontal dimension of a sign as measured in feet and inches.

Mid-century modern style sign : A sign that meets the characteristics of mid-century modern architectural style as further described in section 30-51 of the Town Code and the Town's architectural design guidelines.

Monument sign : A permanent, freestanding stone, masonry or metal sign where the entire bottom of the sign is affixed to the ground or where the sign is placed upon a permanent freestanding masonry wall section.

Mural : A picture, painting or graphic, not otherwise meeting the criteria for a wall sign, applied directly to an otherwise blank wall containing advertising, text or logos, or copyrighted, trademarked or service marked characters, objects or products advertised in print or media advertising. Noncommercial pictures, paintings or graphics which contain no text except for identification of the artist and date in letters not exceeding six inches in height, are not murals.

Name sign : A sign used for the name and unit number or letter of the person, entity or business occupying the premises.

Neon sign : Any type of sign that utilizes exposed neon, argon or any other gaseous or liquid element or compound as a direct means of illumination. Neon, argon or other gaseous or liquid element or compound utilized for illumination that is covered by a translucent material, or otherwise concealed from direct view, shall not be considered to be a neon sign. Exposed neon, argon or any other gaseous or liquid element or compound utilized for illumination used solely to accent or illuminate architectural features of a building shall not be considered a sign, if authorized by the Town Commission as architectural lighting as part of the site plan approval for the development.

New development and redevelopment : For the purposes of this article, the terms new development and redevelopment shall have the following meanings:

- (a) *New development* : The construction of a building or parking lot upon a vacant or cleared plot.
- (b) *Redevelopment* :
 - (1) Any reconstruction or remodeling exceeding 25 percent of the assessed valuation of a building; or
 - (2) Any substantial alteration of the street façade of a building.

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Noncommercial : Containing no commercial message.

Painted sign : Any exterior sign or window sign with text or message that is only painted or applied upon a surface. Decals, plastic film, mosaic, photocopied and printed text or messages are also considered to be "painted." Painted signs do not include murals.

Paper sign : A sign drawn, painted or printed on paper, cardboard, or similar water-absorbing material. Paper or cardboard signs may be used only inside of a building or mounted within a weatherproof cover.

Permanent sign : A permanent sign is any one of the types of signs specifically listed within these regulations as an allowed sign, and which is installed and maintained in a fixed location for an indefinite period of time.

Pole sign : A sign mounted upon one or two vertical poles, either freestanding or extending above another structure. Private directional signs mounted on poles are not considered to be pole signs.

Portable moving sign. A sign not permanently attached to the ground or other permanent structure, and designed to be worn or carried for display by a person or transported by means of wheels. The term "portable moving sign" includes, but is not limited to:

- (a) (1) A human sign; or
- (2) A sign mounted on a bike trailer, vehicle trailer or truck bed.

The term does not include:

- (b) Those signs on a vehicle that identify its business, purpose or principal products; or
- (c) Such advertising devices as may be attached to or displayed on and within the normal unaltered lines of the vehicle of a licensed transit carrier, when and during that period of time such vehicle is regularly and customarily used to traverse the public highways during the normal course of business.

Pylon sign : A sign mounted upon or on top of a vertical wall or other support structure, wherein such wall or structure exceeds six feet in height. A pylon sign that is supported by a pole shall be considered a pole sign. A pylon sign may be either a freestanding sign or attached to and extending above another structure.

Real estate sign : A temporary sign indicating the real property which is available for showing, sale or for lease.

Redevelopment : See "New development and redevelopment."

Roof sign : A sign mounted above the fascia of a sloped roof or above the deck of a flat roof. A sign placed upon a bona fide tower extending above the principal roof-line of the building or upon a dormer or recessed wall within a sloped roof shall not be considered a roof sign.

Sandwich sign : A movable, portable, freestanding, A-frame board construction sign not secured or attached to the ground that can be folded and carried by an individual.

Sign : Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information to the public. The definition of a sign does not include:

- (a) Any sign not visible from any street, property (other than the subject site), beach or water body;
- (b) Wayfinding, directional, hazard and traffic control device and similar signs required or installed by a government agency on private property;
- (c) Notices required to be posted by law or ordinance on private property.

Snipe sign : A sign, which is tacked, nailed, taped, glued or otherwise attached to a tree, pole, fence, newsrack, trash receptacle, building wall or door or other object, unless required by law.

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Stationary vehicle or trailer sign : A sign mounted on, or attached to a motor vehicle or trailer. A vehicle that is parked inside a garage or parked behind a building, or a passenger vehicle displaying a name and telephone number with letters no more than four inches in height, is not a vehicle sign as described above. Nothing herein shall prohibit the parking of commercial vehicles while in the process of making deliveries, service calls or loading/unloading.

Subdivision and residential development identification sign : An identification sign erected at the entrance to a neighborhood or residential development.

Temporary sign : A temporary sign is any one of the types of signs specifically listed within these regulations as an allowed temporary sign and which may be displayed for a limited, specified amount of time.

Trademark/corporate logo: A Federally-registered trademark or logo comprised of a word, phrase, symbol or design, or a combination thereof, which is legally recognized under State or Federal law.

Traffic control device : Any sign that is used as a traffic control device and described and identified in the Manual on Uniform Traffic Control Devices approved by the Federal Highway Administration as the national standard and as may be revised from time to time. A traffic control device sign includes those signs that are classified and defined by their function as regulatory signs (that give notice of traffic laws or regulations), warning signs (that give notice of a situation that might not readily be apparent or that poses a threat of serious injury (e.g., gas line, high voltage, condemned building, etc.) or that provides warning of a violation of law (e.g., no trespassing, no hunting allowed, etc.)), and guide signs (that show route designations, directions, distances, services, points of interest, and other geographical, recreational, or cultural information). These devices are not regulated as signs under this article.

Vehicular use area (VUA) : For the purpose of this section, vehicular use areas are areas used for parking of vehicles, and all land upon which vehicles traverse. A private VUA is a VUA area that is privately owned and not public property.

Wall sign : A sign attached to, or parallel [to] a wall, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

Warning or danger sign : A sign warning of pedestrian or vehicular dangers, access or safety issues (e.g., "no trespass," "one-way," "no parking," "do not enter," or similar safety issues) or of a hazardous condition or dangerous object or animal in the immediate vicinity.

Window : For the purpose of these regulations, a window shall be defined as that portion of a first or second floor façade consisting of a transparent, glass-like material designed to provide viewing of the interior from the exterior of the building and which shall be:

- (a) No less than 75 percent transparent from the exterior;
- (b) The area of a single window includes contiguous window panels separated by dividers less than six inches in width;
- (c) Contiguous window panels separated by dividers greater than six inches in width, separated by a doorway or separated by the corner of a building shall be considered separate windows; and
- (d) A glass door or pair of doors shall be considered a separate window, but shall be no less than 50 percent transparent from the exterior.
- (e) A transom above a door, separated by less than six inches shall be considered part of the door. A glass transom separated by more than six inches shall be considered a separate window.

Window sign : A sign attached to or placed on storefront windows and/or glass doors and that are placed within ten feet of the inside of a window and oriented toward the window. A bulletin board, displayed inside a window, and upon which notices, advertisements, specials, listings and the like are posted, shall be considered a single window sign.

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(Ord. No. 2012-04, § 2, 3-27-2012; Ord. No. 2013-07, § 2, 8-20-2013; Ord. No. 2014-10, § 2, 10-28-2014; Ord. No. 2014-13, § 2, 10-28-2014; Ord. No. 2015-21, § 2, 12-8-2015)

Secs. 30-515—30-530. - Reserved.



Agenda Item No:

Commission Workshop Agenda Item Report

Meeting Date: May 16, 2019

Submitted by: Jhanelle Campbell

Submitting Department: Development Services

Item Type: Discussion Item

Agenda Section: DISCUSSION ITEM

Subject Title:

Downtown Discussion – Sidewalk Café

Explanation:

Please see attached report

Recommendation:

Please see attached report

Attachments:

[5-16-19 AM Downtown Discussion Sidewalk Cafe.docx](#)

[Ex1 CHAPTER 17 ARTICLE_VI.____SIDEWALK_CAFE.doc](#)



Agenda Memorandum

**Administration/
Development Services**

Department

Bill Vance/Linda Connors

Director

COMMISSION WORKSHOP MEETING DATE: May 16, 2019

ITEM CATEGORY: New Business

SUBJECT TITLE: **Downtown Discussion – Sidewalk Café**

EXPLANATION: The Commission asked the staff to hold a workshop to discuss noise levels, signage and sidewalk café regulations. The desired action is for the Commission to review the information to discuss the enforcement of the regulations and determine if any changes should be made to the Town's regulations. These issues will be discussed in three different agenda items, with the last being sidewalk café.

BACKGROUND:

In 1993, the Commission passed Ordinance 342, which authorized sidewalk cafés in the Town. Over the years, it has been amended to require that a clear pedestrian path be maintained, to remove a requirement of a barrier between the sidewalk and the café, to allow signs on furniture, and to allow for the enforcement of violations.

Sidewalk café fees are established by the Commission by resolution. Initially, the Town charged two fees for a sidewalk café or outdoor dining. One fee was for the use of the Town's right-of way and the other was a fee based on the number of chairs in the sidewalk café. The current costs for the right-of-way are \$18 per square foot. The Commission reduced the costs for sidewalk cafés in the plazas to \$10 per square foot. We no longer charge an additional annual permit fee.

DISCUSSION: Staff is in the process of updating the Sidewalk Café Regulations and would like input from the Commission if there are items that they would like us to consider including in the proposed ordinance. In addition to deleting outdated information, the proposed ordinance will incorporate existing Town policy regarding design standards. Other items for consideration include:

- i) If fixtures such as outdoor bars, waitress stations, etc. should be allowed in the sidewalk café area.
- ii) Should barriers to block sidewalk café areas from the main sidewalk be allowed; and
- iii) How to handle the storage of sidewalk café furniture on the street.

The current sidewalk café regulations are attached as Exhibit 1.

Exhibits: 1. Sidewalk café regulations

Agenda Memorandum

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Reviewed by Town Attorney:

☐	Yes	☒	No
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ARTICLE VI. - SIDEWALK CAFÉS

Sec. 17-85. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning.

Affected party shall mean any property owner whose property directly abuts the property upon which the business is located which has applied for or been issued a permit for a sidewalk café.

Furniture/fixtures shall mean tables, chairs, umbrellas and any other objects utilized as part of the sidewalk café.

Pedestrian path shall mean the portion of the right-of-way adjacent to the sidewalk café that is required to be kept free and clear to allow a safe passageway for walking.

Permittee shall mean the owner/operator of the restaurant (who may or may not be the property owner) associated with and holding a sidewalk café permit obtained pursuant to the terms and provisions of this article.

Right-of-way shall mean land in which the State, the Florida Department of Transportation, Broward County or the Town of Lauderdale-By-The-Sea owns the fee or has an easement devoted to or required for use as a transportation facility or street.

Sidewalk shall mean that area, whether privately owned or a portion of the right-of-way, which is located between the curbline or the lateral line of a street and the adjacent building and which is intended for use by pedestrians.

Sidewalk café shall mean a use located on a sidewalk or portion of the right-of-way which is associated with a restaurant, or food establishment. It shall be characterized by the presence of tables and chairs and may be shaded by awnings, canopies or umbrellas if permits for same have been issued.

Street means that portion of a right-of-way improved, designed or ordinarily used for vehicular traffic or parking.

(Ord. No. 342, § 1, 6-22-93; Ord. No. 03-520, § 2, 10-28-03; Ord. No. 2011-10, § 2, 7-26-2011; Ord. No. 2014-18, § 2, 12-9-2014)

Sec. 17-86. - Permit and revocable license required.

- (a) It shall be unlawful for any person to operate a sidewalk café on any sidewalk or public right-of-way within the Town without first obtaining a permit from the Town. The approved permit shall include:
 - (1) A revocable license agreement in a form approved by the Town Attorney, with the Town for any portion of the Town's right-of-way which is used for a sidewalk café;
 - (2) The location, square footage and table placement of sidewalk cafes; and
 - (3) Additional information and conditions as required by the Town.
- (b) The license is revocable in accordance with section 17-92 and shall not constitute a vested property interest in any portion of the public right-of-way.
- (c) Any person or entity operating a sidewalk café without a permit or any property owner allowing the operation of a sidewalk café without a permit upon his/her/its property shall be subject to penalties as provided in this article.
- (d) Each operator of a sidewalk café that operates in a portion of the right-of-way shall pay to the Town a monthly right-of-way license fee established by the Town Commission by resolution for each square foot of right-of-way licensed for use. In addition, the Town may require maintenance fees.

(Ord. No. 342, § 1, 6-22-93; Ord. No. 03-520, § 2, 10-28-03; Ord. No. 2011-10, § 2, 7-26-2011; Ord. No. 2014-18, § 2, 12-9-2014)

Sec. 17-87. - Permit fee.

- (a) All sidewalk café operators shall pay a permit fee based on the number of seats depicted on the Town-approved site drawing required by these regulations. Such fees shall be set and may be amended from time to time by resolution of the Town Commission.
- (b) The permit fee shall be paid on or before October 1 and shall cover the time period from October 1 through September 30 of the following calendar year. No permit shall be issued for any fractional portion of the year; provided, however, that any person or entity operating a sidewalk café for a period beginning after May 1, may obtain a permit for the remaining portion of the fiscal year upon payment of one-half of the permit fee required by this article. No refund of fees shall be allowed.
- (c) The permit fees collected pursuant to this section from sidewalk cafés located in the Town of Lauderdale-By-The-Sea shall be placed in the general revenue fund.

(Ord. No. 342, § 1, 6-22-93; Ord. No. 411, § 2, 11-10-98; Ord. No. 03-520, § 2, 10-28-03; Ord. No. 2011-10, § 2, 7-26-2011; Ord. No. 2013-02, § 3, 4-9-2013)

Sec. 17-88. - Permit and license application.

- (a) Application for a permit and license to operate a sidewalk café shall be commenced by the filing of a complete application on a form provided by the Town and filed with the Development Services Department. Such application shall include:
 - (1) Name, address and telephone number of the applicant.
 - (2) Name and address of business.
 - (3) A copy of a valid Town of Lauderdale-By-The-Sea business tax receipt to operate a business adjacent to the sidewalk area which is the subject of the application.
 - (4) Evidence of insurance containing terms required under section 17-90 of this article.
 - (5) An 8½ × 11 [inch] drawing to legible scale showing the layout and dimensions of the existing sidewalk area and adjacent private property, proposed location, size and number of tables, chairs, steps, trees, parking meter, bus shelters, sidewalk benches, trash receptacles, and any other furniture/fixtures or sidewalk obstruction either existing or proposed within the pedestrian area.
 - (6) Photographs, drawings or manufacturer's brochures fully describing the appearance of all proposed furniture/fixtures related to the sidewalk café.
 - (7) Signature of the owner of the building.
 - (8) A nonrefundable application fee established by the Town Commission by resolution.
- (b) Applications shall be reviewed for compliance with Town ordinances and must be approved by the Town Manager or designee.
- (c) The Town Manager or designee may deny an application that does not comply with this section. Such denials shall be written and shall provide the reasons for the denial. The applicant or an affected property owner may appeal the Town Manager or designee's decision to the Town Commission.

(Ord. No. 342, § 1, 6-22-93; Ord. No. 03-520, § 2, 10-28-03; Ord. No. 2007-06, § 2, 4-10-07; Ord. No. 2011-10, § 2, 7-26-2011; Ord. No. 2014-18, § 2, 12-9-2014)

Sec. 17-89. - Requirements of a sidewalk café permit.

(a) *Location.*

(1) Sidewalk cafés shall be located only in the following places:

- a. The sidewalk frontage of the licensed business to which the permit is issued; or
- b. The sidewalk frontage of the building where the validly licensed business is located.

Such sidewalk cafés may also occupy a portion of the non-vehicular right-of-way.

(2) Adjacent property or adjacent tenant space. In the event the area of the proposed sidewalk café extends in front of an adjacent tenant space or adjacent property, the following provisions apply:

- a. The permittee must obtain written permission from the relevant adjacent property owner for use of this area. Failure to obtain such written permission will not justify a refund of the annual permit fee or any other fees paid to the Town of Lauderdale-By-The-Sea for operation of a sidewalk café.
- b. The Town will send a courtesy notice to those businesses directly abutting the proposed sidewalk café. Any affected person may provide written comments to the Town Manager or designee within ten days of the date of the mailed notice, for the consideration of the Town Manager or designee. Failure to mail or receive such notice shall not affect actions taken under this article.

(3) Permits shall not be issued to place tables and chairs within a ten-foot proximity of bus stops, taxi stands, fire hydrants, a pedestrian crosswalk, or handicap ramp.

However, the Town Manager or designee may permit an exception to the distance requirement from ten feet to five feet where established pedestrian and tram paths shall not be obstructed and where public safety shall not be adversely affected.

(4) Proximity to vehicular right-of-way.

- a. Where parking exists between the sidewalk area proposed for use and the portion of the right-of-way used for vehicular travel, a sidewalk café shall be located in such a manner that a minimum five-foot wide clear pedestrian path on the sidewalk is maintained at all times.
- b. Where no parking exists, a minimum one-foot wide clear area between the edge of the sidewalk closest to the right-of-way used for vehicular travel and the sidewalk café shall be maintained at all times. In areas of congestion, the Town Manager or designee is authorized to require additional clearance.

(b) *Physical barriers.* No objects shall be permitted around the perimeter of a sidewalk area occupied by tables and chairs which would have the effect of forming a physical or visual barrier discouraging the use of the sidewalk by the general public.

(c) *Pedestrian path.* In areas of congested pedestrian activity, the Town Manager or designee, is authorized to require a wider pedestrian path than that provided herein as circumstances dictate.

(d) *Sidewalk café designation.* The Town will designate the approved boundaries of the sidewalk café.

(e) *Sidewalk café furniture/fixtures.*

(1) Furniture/fixtures utilized as part of the sidewalk café shall be of quality design, materials, size, elevation and workmanship both to ensure the safety and convenience of users, and to enhance the visual quality of the urban environment.

(2) Design, materials and colors shall be approved by the Town Manager or designee prior to the issuance of the sidewalk café permit.

- (3) All fabrics shall be fire-retardant, pressure-treated or manufactured of fire resistive material.
- (f) *Monies owed to Town.* Prior to issuance of a sidewalk café permit or annual renewal, the Town Clerk shall certify that there are no outstanding fines, moneys, fees, taxes or other charges owed to the Town by the current or past owners or operators of the property requesting a sidewalk café permit. A sidewalk café permit will not be issued until all outstanding debts to the Town are paid in full.
- (g) *Open air design.* Any business or food establishment that qualifies under the conditions of this article may redesign the face of their establishment to allow for doors or panels that permit the establishment to have totally open sides allowing for an indoor/outdoor "café" design. These changes in the building can only be made after a proper building permit is issued, said changes otherwise comply with the "Code of Ordinances of the Town of Lauderdale-By-The-Sea," the Florida Building Code, and all appropriate fees paid.
- (h) *Maintenance of the right-of-way.* Permittee will be charged for the costs of materials and labor to replace any and all landscaping, paving and other public improvements which are damaged and/or stained resulting from the operation of the sidewalk café utilizing the same quality of materials and workmanship as approved by the Town.

(Ord. No. 342, § 1, 6-22-93; Ord. No. 358, § 1, 9-14-94; Ord. No. 03-520, § 2, 10-28-03; Ord. No. 2009-12, § 2, 7-28-09; Ord. No. 2011-10, § 2, 7-26-2011; Ord. No. 2014-18, § 2, 12-9-2014)

Sec. 17-90. - Liability and insurance.

- (a) The permittee agrees to indemnify, defend, save and hold harmless the Town, its officers and employees from any and all claims, liability, lawsuits, damages and causes of action which may arise out of this permit, or the permittee's activity on the premises by executing a written hold harmless agreement.
- (b) The permittee agrees to meet and maintain for the entire permit period, at his/her own expense, insurance meeting the requirements of section 17-9(3).

(Ord. No. 342, § 1, 6-22-93; Ord. No. 03-520, § 2, 10-28-03; Ord. No. 2011-10, § 2, 7-26-2011; Ord. No. 2014-18, § 2, 12-9-2014; Ord. No. 2015-06, § 2, 8-11-2015)

Sec. 17-91. - Sidewalk café permits.

- (a) Each permit shall be effective for one year from October 1 until September 30, subject to annual renewal with the approval of the Town Manager or designee.
- (b) The permit issued shall be personal to the permittee only and shall be transferable only with the approval of the Town Manager or designee.
- (c) The permit may be temporarily suspended by the Town Manager or designee when necessary to clear sidewalk areas for a "community or special event" authorized by a permit issued by the Police Department.
- (d) The Town Manager or designee may require the temporary removal of sidewalk cafés when street, sidewalk, or utility repairs necessitate such action.
- (e) The Town Manager or designee, and/or an authorized Police Officer of the Town may cause the immediate removal or relocation of all or parts of the sidewalk café in emergency situations.
- (f) The Town and its officers and employees shall not be responsible for sidewalk café components relocated during emergencies.
- (g) The permit shall be specifically limited to the area shown on the scale layout drawing attached to and made a part of the permit. The Town Manager or designee shall have the right to remove without notice, any tables, chairs or other objects not in the permit area.

- (h) The permittee shall act to assure that its use of the sidewalk in no way interferes with pedestrians or limits their free unobstructed passage. The Town Manager or designee may require relocation of furniture/fixtures at any time for safety or pedestrian flow consideration.
- (i) The sidewalk café shall be opened for use by the general public, although such seating may be restricted by the permittee to the patrons of the permittee.
- (j) Furniture/fixtures provided with a sidewalk café shall be maintained with a clean and attractive appearance and shall be in good repair at all times.
- (k) The sidewalk area covered by the permit, and sidewalk and roadway immediately adjacent to it, shall be maintained in a neat and orderly appearance at all times, and the area shall be cleared of all debris as needed during the day, again at the close of each business day and as may be directed by the Town Manager or designee.
- (l) Sidewalk cafe and outdoor dining furniture/fixtures.
 - (1) Tables may include the establishment name and registered trademark logo.
 - (2) Umbrellas may include the establishment name, limited to once on each of the umbrella's panels.
 - (3) Lettering may not exceed four inches in height.
 - (4) Signs are otherwise prohibited on any other furniture/fixtures.
- (m) No furniture/fixtures shall be attached, chained, or in any manner affixed to any tree, post, sign or other fixture, curb or sidewalk within or near the permitted area.
- (n) No outdoor seating authorized herein shall be used for calculating seating requirements pertaining to location of, applications for, or issuance of a liquor license for any establishment; nor shall it be used as the basis for computing required seating for restaurants and dining rooms, or as grounds for claiming exemption from such requirements under the provisions of any Town ordinance or State law.
- (o) The area between the exterior walls of a business or other eating establishment and the edge of sidewalk devoted to a sidewalk café shall be designated as public space. The placement of tables and chairs in this public space shall not constitute a building improvement which otherwise triggers structural improvements to the operating business under the provisions of the Florida Building Code or any State statute.
- (p) In the event an operator of a business or other eating establishment creates a sidewalk café pursuant to the terms of this section and such creation entails actual structural improvements to any portion of the structure other than the public space, or in the event the creation of the sidewalk café permanently obstructs ingress or egress to the business or eating establishment, then all applicable provisions of the South Florida Building Code or State statutes necessitating improvements to the property shall apply.
- (q) No food preparation fire, or fire apparatus, shall be allowed on the public sidewalk, other than that employed in the course of ordinary tableside service, including, but not limited to, menu items which require table preparation, whether or not such area is covered by this permit.
- (r) Upon the issuance of a "Hurricane Warning" or "Hurricane Watch" by the Broward County Office of Emergency Management, the permittee shall forthwith remove and place indoors all furniture/fixtures and other equipment located on the sidewalk.

(Ord. No. 342, § 1, 6-22-93; Ord. No. 358, § 1, 9-14-94; Ord. No. 365, § 2, 7-25-95; Ord. No. 03-520, § 2, 10-28-03; Ord. No. 2007-06, § 2, 4-10-07; Ord. No. 2011-10, § 2, 7-26-2011; Ord. No. 2014-18, § 2, 12-9-2014; Ord. No. 2015-06, § 2, 8-11-2015)

Sec. 17-92. - Revocation or suspension of permit; removal and storage fees; emergencies.

- (a) The approval of a sidewalk café permit is conditional at all times. The holder of a permit has no vested right or property interest in the continuation of the permit or the activity it allows. A sidewalk café permit can be denied, revoked or suspended if it is found that:
 - (1) Any necessary business or health permit has been suspended, revoked or cancelled.
 - (2) The permittee exceeds the approved square footage of the approved area.
 - (3) Changing conditions of pedestrian or vehicular traffic which cause congestion necessitating removal of the sidewalk café. Such decision may be based upon findings of the Town Manager that the minimum five-foot pedestrian path is insufficient under existing circumstances and represents a danger to the health, safety or general welfare of pedestrians or vehicular traffic.
 - (4) The permission of the owner of the building in front of which the sidewalk café, or a portion of a sidewalk café, is located has been revoked. Revocation of a sidewalk café permit, pursuant to this subsection (4) shall be effective 60 days after the owner of the building provides written notice to the Town of such revocation. If the owner of the building in which the restaurant operating the sidewalk café is located revokes permission for the sidewalk café, the entire sidewalk café permit shall be revoked. If the owner of an adjacent property in front of which the sidewalk café extends revokes its permission, then only that portion of the sidewalk café permit authorizing the area in front of the adjacent property shall be revoked.
 - (5) The permittee has failed to correct violations of this article or conditions of the permit within 24 hours of receipt of the Town Manager's notice of same delivered in writing to the permittee.
 - (6) The permittee fails to maintain compliance with the requirements of section 17-90 of this article.
- (b) In the event the permittee fails to remove any furniture/fixtures or other objects related to the sidewalk café within 24 hours of receipt of the Town Manager's final notice of violation, revocation or suspension, the Town Manager may direct Town staff to remove said objects. The permittee shall be responsible for the expenses incurred by the Town for the removal and storage of said objects.
- (c) Action warranting suspension or revocation.
 - (1) If the Town Manager believes that a permittee has engaged or is engaged in conduct warranting the suspension or revocation of the permit, he shall serve the licensee by certified mail or hand delivery, at his business address as disclosed in his application for the permit, a written notice of ordinance violation which affords reasonable notice of facts or conduct which warrant the intended action, and a reasonable time for the permittee to cure the violation.
 - (2) The complaint shall state what is required to be done to eliminate the violation, if any. The permittee shall be given adequate opportunity to request a hearing before the Town Commission, unless the Town Manager finds that an emergency condition exists involving serious danger to public health, safety and welfare, in which case advance notice and hearing shall not be required.
 - (3) In the case of an emergency suspension or revocation, the licensee shall immediately be advised of the Town Manager's action.
 - (4) In the event the permittee does not cure the violation within the reasonable time designated by the Town Manager, penalties shall be imposed pursuant to section 17-93.

(Ord. No. 342, § 1, 6-22-93; Ord. No. 03-520, § 2, 10-28-03; Ord. No. 2011-10, § 2, 7-26-2011; Ord. No. 2014-18, § 2, 12-9-2014; Ord. No. 2015-06, § 2, 8-11-2015)

Sec. 17-93. - Enforcement.

- (a) This article shall be enforced as follows:
 - (1) The Town Code Enforcement Special Master shall have jurisdiction to hear and decide cases in which violations of this chapter are alleged; or

- (2) The Town may enforce the provision of this Code by supplemental code or ordinance enforcement procedures as provided by F.S. ch. 162, pt. 2; or
- (3) The Town may prosecute violations by issuance of notices to appear for violation of a Town ordinance.
- (b) The penalty for a violation of this article shall be as provided by F.S. ch. 162.
- (c) The Town Attorney, with authorization from the Town Commission, may bring suit on behalf of the Town to enjoin any violation of this chapter.

(Ord. No. 342, § 1, 6-22-93; Ord. No. 03-520, § 2, 10-28-03; Ord. No. 2011-10, § 2, 7-26-2011; Ord. No. 2014-18, § 2, 12-9-2014)

Sec. 17-94. - Recovery of unpaid fines; unpaid fines to constitute a lien; foreclosure.

- (a) The Town of Lauderdale-By-The-Sea may institute proceedings in a court of competent jurisdiction to compel payment of civil fines.
- (b) A certified copy of an order imposing a civil fine may be recorded in the public records and thereafter shall constitute a lien upon any other real or personal property owned by the violator and it may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, but shall not be deemed to be a court judgment except for enforcement purposes. After two months from the filing of any such lien which remains unpaid, the Town may foreclose or otherwise execute on the lien.

(Ord. No. 342, § 1, 6-22-93; Ord. No. 03-520, § 2, 10-28-03)

Secs. 17-95—17-100. - Reserved.