



Town Commission

NOTICE OF VIRTUAL TOWN COMMISSION MEETING

Pursuant to Executive Order 20-69 issued by the Governor and the Town Local Declaration of Public Emergency, a VIRTUAL Town Commission meeting will be held on Tuesday, May 12, 2020, at 6:30 p.m. and broadcast from Town Hall.

The May 12, 2020 Town Commission meeting will be held as a VIRTUAL MEETING with elected officials and Town staff participating through video conferencing. This virtual meeting will be broadcasted live for members of the public to view on the Town's website (www.lbts-fl.gov), Comcast Channel 78, and AT&T U-verse Channel 99.

Members of the public may submit comments via email to

public_comments@lbts-fl.gov. Any comments received will be provided to the Commission and included in the minutes.

Public comments submitted via email are to be limited to a 400-word limit. The comment must include the person's name and address, and identify the agenda item to be addressed, if the comment is for a specific agenda item. The deadline to submit public comment will occur when the Mayor closes public comment for the virtual meeting, or for the item.

A copy of the agenda for the virtual Town Commission meeting can be accessed on the Town's website, at

<https://www.lauderdalebythesea-fl.gov/341/Agendas-Video>.

All persons needing assistance or special accommodations to participate in virtual meetings should please contact the Town Clerk's Office (954) 640-4201, not later than two business days prior to such meeting

Please note that Governor DeSantis' Executive Order Number 20-69 suspended the requirements of Section 286.011, Florida Statutes, the Florida Sunshine law, that a quorum be present and that a local government body meet at a specific public place. The Executive Order also allows local government bodies to utilize communications media technology, such as telephonic and video conferencing for local government body meetings.

virtual

Virtual Town Commission Meeting

VIRTUAL TOWN COMMISSION MEETING

Tuesday, May 12, 2020, 6:30 PM
virtual

1. CALL TO ORDER, MAYOR CHRIS VINCENT

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION - Moment of Silence

4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS

5. PRESENTATIONS

- 5.a** Proclamation for “National Police Week” and “National Peace Officers Memorial Day”
(Captain Thomas Palmer, BSO)

[CoverPage.pdf](#)

[Proclamation.pdf](#)

6. PUBLIC COMMENTS

7. PUBLIC SAFETY DISCUSSION

- 7.a** BSO April 2020 Report (Captain Thomas Palmer, BSO)

[CoverPage - Report.pdf](#)

[TM Report- April 2020.pdf](#)

- 7.b** VFD April 2020 Report (Chief Judson Hopping, VFD)

[CoverPage.pdf](#)

[VFD April Report.pdf](#)

- 7.c** AMR April 2020 Report (Chief Brooke Liddle, AMR)

[CoverPage.pdf](#)

[AMR LBTS Times 4-2020.pdf](#)

8. TOWN MANAGER REPORT

- 8.a** Town Manager Report (Bill Vance, Town Manager)

[May 12 TM Report.pdf](#)

[Code Fines Over 75K - May 8, 2020 UPDATED.pdf](#)

[May 2020 -- Active Code Violations.pdf](#)

9. TOWN ATTORNEY REPORT

10. APPROVAL OF MINUTES

- 10.a April 14, 2020 Town Commission Meeting Minutes (Tedra Allen, Town Clerk)
[CoverPage.pdf](#)
[04-14-20 LBTS Commission 1st draft minutes.pdf](#)

11.CONSENT AGENDA

12.OLD BUSINESS

- 12.a 4th of July Discussion (Bill Vance, Town Manager)
[CoverPage - Discussion of 4th of July Event.pdf](#)
- 12.b El Mar Drive Project – Public Participation Meeting #2 (Linda Connors, Development Services Director)
[CoverPage-El Mar Drive Update.pdf](#)
[Ex1 El Mar Drive Survey 1 Results.pdf](#)

13.NEW BUSINESS

- 13.a Town Manager Closing Code Lien Update (Bill Vance, Town Manager)
[CoverPage Town Manager Closing Code Lien Update.pdf](#)
[Code Cases as of 5_4_20.pdf](#)
- 13.b BugFest-By-The-Sea Discussion (Steve d'Oliveira, Public Information Officer)
[CoverPage BugFest 2020.pdf](#)

14.COMMISSIONER COMMENTS

15.ORDINANCES 1st Reading

- 15.a Ordinance 2020-05 - AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 25, "TELECOMMUNICATIONS" REGARDING COMMUNICATIONS FACILITIES IN RIGHTS-OF-WAY REGULATIONS; PROVIDING AND AMENDING DEFINITIONS OF TERMS; PROVIDING FOR UNIFORM, NONDISCRIMINATORY STANDARDS TO PREVENT OVERCROWDING, PROLIFERATION AND SATURATION OF TOWN'S RIGHTS-OF-WAY, INCLUDING STANDARDS RELATED TO STEALTH DESIGN, PROTECTION OF RESIDENTIAL PROPERTIES, AND EQUIPMENT LOCATION AND SIZE; PROVIDING FOR THE ENCOURAGEMENT OF COLLOCATION OF COMMUNICATIONS FACILITIES; PROVIDING REGULATIONS FOR SMALL WIRELESS FACILITIES; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE. (Linda Connors, Development Services Director)
[CoverPage Ordinance 2020_05 1st Reading.pdf](#)
[Ord 2020-05 Telecommunications .pdf](#)
- 15.b Ordinance 2020-06 - AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, PROVIDING FOR THE SUBMISSION TO THE ELECTORS OF THE PROPOSED AMENDMENT TO THE TOWN CHARTER,

PURSUANT TO SECTION 166.031, FLORIDA STATUTES, SUBMITTING PROPOSED CHARTER AMENDMENT TO ARTICLE VII, "PLANNING AND ZONING," SECTION 7.1., "MAXIMUM HEIGHT FOR BUILDINGS ESTABLISHED; REFERENDUM VOTE REQUIRED FOR INCREASES IN ZONED RESIDENTIAL-DISTRICT HEIGHT LIMITS" TO PRESERVE THE FIVE-STORY HEIGHT OF BUILDINGS ON EL MAR DRIVE GATEWAY PROPERTIES; CALLING A REFERENDUM ON THE PROPOSED CHARTER AMENDMENT TO BE HELD ON TUESDAY, THE 3RD DAY OF NOVEMBER 2020, IN CONJUNCTION WITH THE GENERAL ELECTION BEING HELD ON SAID DATE; PROVIDING FOR VOTING AT THE POLLS; PROVIDING FOR NOTICE OF ELECTION; PROVIDING FOR REQUISITE BALLOT LANGUAGE; PROVIDING FOR INCLUSION IN THE CHARTER, SEVERABILITY AND FOR AN EFFECTIVE DATE.
(Susan Trevarthen, Town Attorney)

[CoverPage Ord 2020-06 Charter Amendment El Mar Gateway.pdf](#)
[Ex1 Ordinance 2020-06 Charter Amendment - El Mar Drive Gateway Properties3GW562803.pdf](#)

16.ORDINANCES 2nd Reading

17.RESOLUTIONS - PUBLIC COMMENTS

18.QUASI JUDICIAL PUBLIC HEARING

19.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.



Town Commission Agenda Item Report

Meeting Date: May 12, 2020

Submitted by: Thomas Palmer

Submitting Department: Public Safety

Item Type: Presentations

Agenda Section: PRESENTATIONS

Subject Title:

Proclamation for "National Police Week" and "National Peace Officers Memorial Day" (Captain Thomas Palmer, BSO)

Explanation:

In 1962 President Kennedy and Congress designated May 15 each year as "National Peace Officers Memorial Day" and the week it falls in, "National Police Week", which is May 10 – 16, 2020. This proclamation recognizes and commemorates the dedication of police officers to preserve the rights of citizens and keep them and their communities safe

Attachments:

1. Proclamation



PROCLAMATION

Issued by the Governing Body of the
Town of Lauderdale-By-The-Sea, Florida

WHEREAS, in 1962, President Kennedy proclaimed May 15 as National Peace Officers Memorial Day and the calendar week in which May 15 falls, as National Police Week. Established by a joint resolution of Congress in 1962, National Police Week pays special recognition to those law enforcement officers who have lost their lives in the line of duty for the safety and protection of others; and

WHEREAS, the International Association of Chiefs of Police has declared law enforcement officer safety and wellness a top priority, and the IACP's Center for Officer Safety and Wellness promotes the importance of individual, agency, family, and community safety and wellness awareness; and

WHEREAS, the members of our law enforcement agency for the Town of Lauderdale-By-The-Sea play an essential role in safeguarding the rights and freedoms of the citizens of the Town; and

WHEREAS, it is important that all citizens know and understand the problems, duties and responsibilities of their police department, and that members of our police department recognize their duty to serve the people by safeguarding life and property, by protecting them against violence or disorder, and by protecting the innocent against deception and the weak against oppression or intimidation; and

WHEREAS, the police department of the Town of Lauderdale-By-The-Sea has grown to be modern and scientific law enforcement agency which unceasingly provides a vital public service.

NOW, THEREFORE, I, Chris Vincent, Mayor of the Town of Lauderdale-By-The-Sea, Florida, call upon all citizens of the Town of Lauderdale-By-The-Sea and upon all patriotic, civil and educational organizations to observe the week of **May 10-16, 2020 as "NATIONAL POLICE WEEK"** with appropriate ceremonies in which all of our people may join in commemorating police officers, past and present, who by their faithful and loyal devotion to their responsibilities have rendered a dedicated service to their communities and, in doing so, have established for themselves an enviable and enduring reputation for preserving the rights and security of all citizens.

I further call upon Town citizens to observe **May 15, 2020 as "NATIONAL PEACE OFFICERS MEMORIAL DAY"** to honor those peace officers who, through their courageous deeds, have lost their lives or have become disabled in the performance of duty.

In witness whereof we have hereunto set our
hands and caused this seal to be affixed

Attest: _____
Tedra Allen, CMC
Town Clerk

Chris Vincent, Mayor
May 12, 2020



Town Commission Agenda Item Report

Meeting Date: May 12, 2020

Submitted by: Thomas Palmer

Submitting Department: Public Safety

Item Type: Report

Agenda Section: PUBLIC SAFETY DISCUSSION

Subject Title:

BSO April 2020 Report (Captain Thomas Palmer, BSO)

Explanation:

BSO April 2020 Report

Recommendation:

Approve/Accept

Attachments:

1. April 2020 Report



Date: May 4, 2020

To: William Vance
Town Manager
Lauderdale-By-The-Sea

From: Captain Thomas Palmer *Tom*
Lauderdale-By-The-Sea District

Subject: Monthly Report to Commission – April 2020

PERSONNEL CHANGES:

N/A

EMPLOYEE OF THE MONTH: Deputy Michael Kratz

On 4/30/20, Deputy Kratz was dispatched to 1800 S. Ocean Blvd, in reference to a complaint of a 'low flying helicopter.' This was a common complaint during April, often received from residents regarding, aircraft flying too low. Almost all of these complaints were unfounded, due to no evidence to support the reporters' claims. Dep. Kratz met with a resident, who advised that a distinctively marked helicopter has hovered dangerously close to the condo building upper floors on numerous weekly occasions during the preceding 2-3 months. The resident then provided several photos he took documenting his complaints. Dep. Kratz reviewed the photos and confirmed the helicopter was hovering at a height lower than the top of the structure and even within several feet of the balconies. Dep. Kratz then learned from witnesses that a resident of the building was possibly a friend of the helicopter pilot, who might be "showing off."

Dep. Kratz then contacted the FAA and provided the helicopter registration/tail number to an Aviation Safety Inspector, who stated that he had also received several similar complaints. The inspector researched the registration and contacted the helicopter owner, who indicated his son is currently taking flying lessons and using the helicopter under the instruction of a trainer pilot. The owner also confirmed that a college friend of his son does live in the building and his son is likely "showing off." The FAA Inspector then conducted a telephone conference call with the owner, his son, and pilot, during which they admitted to the repeated violations of the FAA flight rules. During the call, the owner assured the inspector there would be no more such incidents or severe consequences would occur, up to and including the seizure of the aircraft.

The FAA Inspector later forwarded an email to Deputy Kratz thanking him for his efforts and confirming the aforementioned information. As a result of his actions and investigative efforts, Dep. Kratz brought a swift resolution to an uncommon situation, and promptly addressed the concerns of numerous LBTS residents. For his professionalism and aforementioned meritorious actions, I nominate Dep. Michael Kratz as the BSO LBTS April 2020 Employee of the Month.

COMMUNITY PROGRAMS AND SERVICES: These ancillary programs and services are available to residents on an ongoing basis.

- **Elder Links:** This program offers referral services to elderly residents and other senior citizens in need of medical and mental health care, meal delivery or other social services.
- **Business and Residential Security Surveys:** The Business and Residential Security Survey program teaches participants to secure their business, home or condominium to reduce the likelihood of burglary and theft. Security surveys, conducted by a certified law enforcement security specialist, are provided upon request, at no charge to the business owner or resident.
- **Vacation House Watch Program:** Residents who are traveling out-of-town may register for this program. Deputies will conduct periodic checks of their residence until their return.
- **Neighborhood Crime Prevention Program:** The Neighborhood Crime Prevention program liaison organizes and conducts crime prevention and security seminars at the request of neighborhood civic and condominium associations. We will also help facilitate any Neighborhood Crime Watch programs in which the residents wish to participate.
- **Identity Theft and Scam Prevention Program:** The Identity Theft and Scam Prevention program is designed to inform residents about identity theft and how to lessen their chances of becoming a victim of a scam. Residents are informed on the importance of shredding documents, awareness of suspicious individuals, protection of passwords and use of caution in revealing information. Our Shred-A-Thon to reduce identity theft event is incorporated into this program.
- **Enhanced Marine Law Enforcement Patrol Program:** The BSO Marine Patrol Unit participates in the Enhanced Marine Law Enforcement Grant on behalf of Lauderdale-by-the-Sea. This grant allows for additional maritime patrols throughout the Town's waterways and adjacent ocean area.
- **Citizen Observer Patrol (COP) Program:** COP volunteers are local residents who receive public safety training. They are a tremendous asset to the Town of Lauderdale-by-the-Sea. COP members alternate assisting in administrative duties or patrolling local neighborhoods as an extra pair of eyes and ears to supplement deputy sheriff patrols. COP members also attend monthly patrol information and criminal intelligence briefings. A summary of COP statistical activity is included at the end of this report.
- **Sexual Offender Tracking Program:** There are **no** individuals legally classified as a sexual offender residing within Town limits. The sex offender database is routinely checked by BSO to ensure compliance with State of Florida legal mandates. Existing municipal ordinances prohibit persons classified as sexual offenders or sexual predators from residing within Town limits.
- **Bicycle Patrol:** Deputies utilize specialized patrol bicycles to enhance public safety and community outreach. This mode of patrol allows the deputies to interact one-on-one with our residents and visitors. The patrol bicycles were utilized for a total of 13.5 hours this month.

- **All-Terrain Vehicle Patrol:** The ATV / Polaris are primarily utilized on the beach areas in order to conduct patrols to deter criminal activity and maintain the security of the beach-area properties. The ATV patrol is instrumental in marine fisheries regulation enforcement and protection. Deputies used the ATV / Polaris for 2,339 miles and 452 hours this month.
- **Crisis Intervention Team / Homeless Outreach Team Programs:** The C.I.T. / H.O.T. program is comprised of specially trained patrol deputies and supervisors who are able to intervene in situations involving persons with mental illness or are otherwise experiencing mental health crises or are homeless and in need of services. Five (5) individuals were contacted and were involuntarily Baker Acted after displaying signs of mental illness and were a threat to themselves or others. Two (2) individuals experiencing homelessness were contacted during the month. One (1) was transported to an area hospital to receive mental health treatment.
- **Automated License Plate Reader Camera System:** The ALPR system installation was completed in October 2014. The system is proving to be an effective tool to Public Safety. **See Notable Incidents/Arrests below.**
- **e – Alerts:** This information initiative allows Town residents to stay informed, via email or text messages, of important topics such as criminal activity, traffic information, upcoming events, security issues and other important public safety information throughout Broward County and Lauderdale-by-the-Sea. Residents can register for this program through either the Lauderdale-by-the-Sea or the Broward Sheriff's Office internet website.
****PLEASE NOTE:** The e-Alert system is being phased out and will be replaced with the Sheriff's new BSO ALERTS. Users must register for the new ALERT system to receive notifications. Citizens can sign up by visiting the Sheriff's website www.sheriff.org and click on BSO ALERTS or I have provided a hyperlink below:
<https://member.everbridge.net/index/892807736729054#/login> **
- **Electronic Message Board:** The BSO Lauderdale-by-the-Sea district continues to utilize the electronic traffic safety message board at various locations within the Town. This allows the district to alert residents about any traffic problems and other important public safety issues impacting them.
- **SaferWatch:** SaferWatch is an application (app) that gives citizens the power to record or report non-emergency incidents as they happen. It provides another option to the "If you see something, say something" message and allows individuals that "If you see something, SEND something" via a mobile application (app) from your smartphone.
- **TWITTER:** The Broward Sheriff's Office has provided an official Twitter account to Captain Palmer and Lieutenant Wesolowski to provide information to the public via social media. Follow us **@BSOLBTS**.

SPECIAL EVENTS: These events required the participation of the BSO LBTS district.

ALL EVENTS WERE SUSPENDED DUE TO COVID-19

NOTABLE INCIDENTS / ARRESTS:**CASE:** 13-2004-000020**DATE/TIME:** 4/1/20 @ 2148 hrs.**LOCATION:** 270 block Capri Ave.**ARRESTEE:** Denise Sparda (w/f, 5/14/67)**INCIDENT:** Felonious Battery on 65 yr. or Older

SUMMARY: Deputy Klier responded to a report of domestic battery at the listed residence. Investigation revealed that the suspect had repeatedly struck her live-in boyfriend, with a phone causing redness and pushed him into a chair placing her knee on his chest forcefully. Sparda was arrested for Domestic Battery (Felony) on an Individual 65 or Older.

CASE: 13-2004-000175**DATE/TIME:** 3/27/2020 – 3/31/2020 (reported 4/10)**LOCATION:** 4532 Bougainvilla Drive**SUBJECT:** Unknown**VEHICLE:** 2017 Porsche 911 convertible**INCIDENT:** Burglary Conveyance (Delayed-UNLOCKED)

SUMMARY: The victim advised that he was visiting a friend for several days at 4532 Bougainvilla Dr. #17 LBS and last secured his vehicle on 3/27/2020. When he re-entered his vehicle on 3/31/2020, he noticed his center console to be wide open and three credit cards missing along with his FL. Temp Tag # CQU8314 to be missing from the rear of his vehicle. No signs of a forced entry. Cards cancelled, no un-authorized transactions. Sun Pass shows his stolen temporary tag on a dark colored BMW being used several times on 4/6/20.

MONTHLY ARREST LOGS:

Battery on a Person 65 YOA or Older

271 Capri Av

CRIME STATISTICS:

CRIME	CURRENT MONTH	PRIOR MONTH	2019 YTD	2020 YTD
AUTO THEFT	0	3	2	5
BURGLARY-BUSINESS	0	0	0	0
BURGLARY-CONVEYANCE	1	2	4	5
BURGLARY-RESIDENCE	0	0	2	5
BURGLARY-STRUCTURE	0	0	0	0
FORCIBLE SEX	0	1	0	1
ARSON	0	0	0	0
ASSAULT-AGGRAVATED	0	0	0	1
HOMICIDE	0	0	0	0
ROBBERY	0	0	0	0
THEFT-GRAND	0	0	9	2
THEFT-PETIT	2	1	18	9
TOTALS	3	7	36	27

CITIZEN OBSERVER PATROL STATISTICAL SUMMARY:

COP Activity	Total
Number of Volunteers	32
COP Hours Worked - Month	0
COP Patrol Miles - Month	0
COP Hours Worked - YTD	643
COP Patrol Miles - YTD	1281

COP Bike Patrol Hours - Month	0
COP Bike Patrol Hours - YTD	32

COP Beach Patrol Hours – Month	0
COP Beach Patrol Hours - YTD	112

Due to COVID-19 Captain Palmer stopped all COP patrols on March 12, 2020

RESERVE DEPUTY ASSISTANCE: Reserve Deputies are part-time, fully-sworn deputies who provide supplemental staffing to LBTS, when available, at NO cost to the Town.

	Month	2020 YTD
Reserve Deputy - Days Worked	8	31
Reserve Deputy - Hours Worked	63	268.25

MONTHLY STAFFING AND STATISTICAL REPORT:

The April 2020 Monthly Staffing and Statistical Report is attached.



Lauderdale by the Sea Monthly Activity April 2020

Reports/Calls	
Miscellaneous Service	
Event Reports	27
Accidents	3
Calls for Service	447

Traffic	
Types of Citation	
Non-Moving / Moving Citation	5
Parking	0
Warnings	2
Total Citations	7

Arrests	
Type of Arrest	
DV - Felony	1
Misdemeanor	0
NTA	0
Capias/Warrant	0
Traffic	0
NIC (Felony)	0
NIC (DV Misdemeanor)	0
NIC (Misdemeanor)	0
DUI	0
Total Arrests	1

Time Worked	
Hours Worked	
Bike Patrol	13.5
Court Overtime	0
Training	0
Detached	35
Other Overtime	71
Days Worked	30

General	
FI	12
Truant	0
Truant Debriefed	0
Elder Link	0

Narrative
ATV/UTV: 2,339 Miles / 452 Hours Reserve Deputies worked 8 shifts (63 hrs)



MONTHLY STAFFING AND STATISTICAL REPORT LAUDERDALE-BY-THE-SEA DISTRICT

April 30, 2020

CURRENT STAFFING ALLOCATIONS

Position	Budgeted Positions	Actual Positions	Vacant Positions
District Chief	1	1	
Executive Lieutenant	1	1	
Sergeant	3	3	
Deputy Sheriff	19	18	1
Community Service Aide	1	1	
Administrative Specialist	1	1	
Clerical Specialist (P/T)	2	1	1
TOTAL	28	26	2

PERSONNEL ON LIGHT DUTY, PROMOTED, TRANSFERRED, ETC.

Name	CCN	Status	Circumstances

DETACHED PERSONNEL / LOCATION

Name	CCN	Detached to	Reason	Hours
Detective Glen Genovese	13738	Port Everglades	QRF - COVID19	6.5
Detective Glen Genovese	13738	Port Everglades	QRF - COVID19	12.5
Deputy Javier Barrios	16797	Port Everglades	Motor Escort	16
			TOTAL	35



LAUDERDALE BY THE SEA DISTRICT
NEARBY SEX OFFENDERS (3 Mile Radius) – APRIL, 2020



**MOVED OUT OF STATE
NEW BEDFORD, MA**

STEPHEN A FERNANDES
04/04/1950

3333 NE 34TH ST
APT. 518
FT Lauderdale, 33308

SEX OFFENSE, OTHER
STATE
(POSSESS/EXCHANGE
CHILD IN A STATE OF
NUDITY (2 COUNTS))

(GUILTY/CONVICTED
– 11/28/2005)

Bristol, MA



JOSEPH P MESSIER
12/11/1974

111 Briny Ave.
Apt 1602
Pompano Bch, 33062

SEX OFFENSE,
FEDERAL
(KNOWINGLY
ENTICING A MINOR
VIA COMPUTER TO
ENGAGE IN SEXUAL
ACTIVITY)

(GUILTY/CONVICTED
– 09/19/2003)

Federal, FL



**MICHAEL WALTER
MORALES**
04/22/1974

516 S. Ocean Blvd #1
Pompano Beach 33062

USE OF COMPUTER TO
SOLICIT OR LURE A
CHILD TO ENGAGE IN
SEXUAL CONDUCT F.S.
847.0135(3)(a) (PRINCIPAL)

(GUILTY/CONVICT)
10/24/2014)

Broward, FL

Still shows on FDLE Website



JAMES ORLIN CLARKE
05/14/1980

4109 N Ocean Dr.
LFTS, FL 33308
(Unknown location)

SEX OFFENSE, OTHER STATE
(3RD DEGREE CRIMINAL
SEXUAL CONDUCT-PERSON
13 TO 15)

(GUILTY/CONVICTED –
11/09/1999)

Macomb, MI

2/19/20 CI Sgt. Was advised
3/23/20 Advised by CI unit that
Sex Offender was removed from
4109 N Ocean Dr.



LAUDERDALE BY THE SEA DISTRICT
NEARBY SEX OFFENDERS (3 Mile Radius) – APRIL, 2020



**ROBERT ANTHONY
OHARE**

11/01/1961

2 Compass Ln
Fort Lauderdale, FL 33308

POSS OF
PHOTO/PICTURE
SHOWING SEXUAL
PERFORMANCE BY A
CHILD; F.S. 827.071(5) (50
COUNTS)

(GUILTY/CONVICTED –
01/08/2018)
Lake, FL



**ANTHONY MANGANARO
JR.**

11/08/1965

2751 NE 58th St
Fort Lauderdale, FL 33308

SEX OFFENSE, OTHER
STATE (ATTEMPTED
DISSEMINATE INDECENT
MATERIAL TO MINORS
1ST DEGREE)

(GUILTY/CONVICTED –
11/20/2003)
New York, NY



DERWIN JOHN FRAZER

06/26/1957

2901 NE 55th Place
Ft. Lauderdale, FL 33308

SEX OFFENSE, OTHER
STATE (Assault/Battery of
High and Aggravated nature)

(GUILTY/CONVICT –
11/15/2010)

Richland, SC



MICHAEL DAVID SCHMEHL

05/26/1974

4141 Bayview Dr.
Ft. Lauderdale, FL 33308

SEX OFFENSE, OTHER
STATE (SEXUAL
ASSAULT)

(GUILTY/CONVICTED
– 08/26/1998)

Bucks, PA



VINCENT ALBERGO

04/17/1959

3305 NE 16TH PL.

Ft. Lauderdale, FL 33308

LEWD ASLT/SEX BAT
VCTM<16; F.S. 800.04(3)
(PRINCIPAL)

(GUILTY/CONVICTED
– 12/01/1999)

Broward, FL

May 1, 2020

Prepared by: Giovanna Anderson



LAUDERDALE BY THE SEA DISTRICT
NEARBY SEX OFFENDERS (3 Mile Radius) – APRIL, 2020



**DOMINICK ANTHONY
AMENTO**

04/11/1943

3100 Blk Oakland Park Blvd.
Fort Lauderdale, FL 33308
(Transient)

ABUSE OF CHILD, ENG SEX
PERFM; F.S.

FALSE IMPRISON ANY
OTHER; F.S. 787.02
(PRINCIPAL)

PROV.OBSCENE
MAT.MINOR; F.S. 847.0133
(PRINCIPAL)

(GUILTY/CONVICTED –
09/22/2004

Broward, FL



HUBERT HERNANDEZ

12/06/1960

63rd St and Federal Hwy.
Fort Lauderdale, FL 33306
(Transient)

LEWD OR LASCIVIOUS
EXHIBITION VICTIM
UNDER 16 YEARS OLD
OFFENDER 18 OR OLDER;
F.S. 800.04(7)(C)

(PRINCIPAL) **TIMES 3**

(GUILTY/CONVICTED –
05/22/2002)

Broward, FL



**DAVID RAPHAEL
ROSENRAUCH**

07/26/1971

3100 NE 46th ST.
Fort Lauderdale, FL 33308

PROV.OBSCENE
MAT.MINOR; F.S. 847.0133
(PRINCIPAL)

SEXUAL PERFORMANCE BY
A CHILD(POSSESS PHOTO OR
PICTURE); F.S. 827.071(4)
(PRINCIPAL)

PRODUCE, DIRECT,
PROMOTE SEXUAL
PERFORM. BY CHILD; F.S.
827.071(3) (PRINCIPAL IN
ATTEMPT)

ADJUDICATION WITHHELD
11/12/1996

Lake, FL



**PAUL LAWSON
MACINTOSH EPSTEIN**

05/16/1967

1551 SE 23RD Ave.
Pompano Beach, FL 33062

SEX BAT/INJ NOT
LIKELY; F.S. 794.011(5)

(GUILTY/CONVICTED
1/14/1997)

Broward, FL



ROBERTO BADILLO

10/10/1963

2621 N Ocean Blvd. #27
Fort Lauderdale, FL 33308

SEX BAT/INJ NOT
LIKELY; F.S. 794.011(5)

(GUILTY/CONVICTED
1/31/1994)

Miami-Dade, FL

May 1, 2020

Prepared by: Giovanna Anderson



Town Commission Agenda Item Report

Meeting Date: May 12, 2020

Submitted by: Judson Hopping

Submitting Department: Public Safety

Item Type: Report

Agenda Section: PUBLIC SAFETY DISCUSSION

Subject Title:

VFD April 2020 Report (Chief Judson Hopping, VFD)

Explanation:

VFD April 2020 Report

Recommendation:

Approve/Accept

Attachments:

1. VFD April 2020 Report



Lauderdale-By-The-Sea Volunteer Fire Department

Overview

During the month of April 2020, the Volunteer Fire Department continued its focus on fire prevention for high-rise buildings and commercial properties. There were 132 fire inspections with no re-inspection, and one violation complaint that was referred to Code Compliance.

Responses:

The Volunteer Fire Department responded to 35 fire rescue calls within the limits of our contract.

- Of the 35 fire rescue calls received, there were 11 fire alarms, 2 electrical/utility fires, 1 fuel spill, 4 elevator rescues, 2 accidents w/injuries, 1 drowning, and 14 "other" fires.
- There were 51 emergency medical 911 calls for April 2020. The department was dispatched to 8 of those calls, of which 6 were cleared or cancelled by the Chief on Duty or Med12. The department assisted Med12/212 on 2 of the medical calls.

Training:

The Volunteer Fire Department had 13 regular in-town members, and 27 associate out of town members for a total of 40 active members.

Due to the COVID-19, there were no training drills; members continued their Target Solution on-line training assignments for the month of April.

In closing, the Volunteer Fire Department will continue to improve and increase its members training, as required by ISO and established state training curriculums.

Respectfully,

Judson Hopping,
Fire Chief



Town of Lauderdale-By-The-Sea Fire Department Monthly Report April 2020

	Regular In-town	Associate Out of Town
Active Member	13	27
Fire 1 non-certified	3	0
Fire 1 Certified	0	0
Fire II Certified	10	34
CPR/1 st Responder	6	2
EMT-B (FL)	1	18
Paramedic (FL)	4	7

Emergency Calls

Fire/Rescue	35
Total Medical 911 calls	51
Medical calls V.F.D. Not Dispatched	43
Medical calls V.F.D. Dispatched	8
Medical calls Canceled by COD/M12	6
Medical calls V.F.D. Assisted	2

Training

15+ Total Hrs.

Firefighter Drills -- canceled for month	0 Hrs
Ocean Rescue Training -- canceled for month	0 Hrs
Fire Permit/Inspections	15 Hrs

Station Watch/Community Service

3,027.25+ Total Hrs.

Firefighter Station Watch hours	2,307.25+ Hrs
Ocean Rescue Patrol -- beach closed	0 Hrs
Chief on Duty/Command	720 Hrs

LBTS Volunteer Fire Department - April 2020, Active Roster

Last Name	First Name	LBTS FF No.	Membership	Town Resident	Rank	Fire Cert	EMS Certification	MTD Calls	YTD Calls
Atkinson	Kevin	175765	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	0	18
Aubrey	Keith	163	Regular Member		Firefighter	Firefighter II	Paramedic (FL)	6	42
Bias	Jonathan	81298	Associate Member		Firefighter	Firefighter II	Paramedic (FL)	0	4
Caldas	William	160812	Associate Member		Firefighter	Firefighter II	Paramedic (FL)	10	47
Carlton	Ryan	186384	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	24	92
Chavez	Alexander	153544	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	0	31
Clinton	Ryan	177389	Associate Member		Firefighter	Firefighter II	CPR for healthcare provider	19	38
Cowles	James	186248	Regular Member	*	Trainee	Trainee	CPR for healthcare provider	28	49
Dwyer	Michael	187475	Regular Member	*	Trainee	Trainee	CPR for healthcare provider	9	228
Edouard	Myriam	708	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	0	15
Garcia	Ali	166036	Associate Member		Firefighter	Firefighter II	Paramedic (FL)	0	31
Garcia	Natasha	178781	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	8	49
Gonzalez	Anthony	177356	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	0	1
Gonzalez	Christopher	182178	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	0	17
Grunow	Samuel	186257	Regular Member	*	Trainee	Trainee		24	54
Hoelderlin	Logan	174642	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	6	43
Hopping	Judson	054	Regular Member		Fire Chief	Firefighter II - D/E	EMT-B (FL)	10	76
Johnson	Scott	33742	Regular Member	*	Firefighter	Firefighter II-D/E - Officer I	Paramedic (FL)	9	76
Justice	Heather	182138	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	14	25
Justice	Jennifer	171	Associate Member		Firefighter	Firefighter II	Paramedic (FL)	0	15
Kane	Mark	155	Associate Member		Captain	Firefighter II-D/E - Officer I	EMT-B (FL)	12	95
Karley	Robert	101	Regular Member	*	Firefighter	Firefighter II - D/E	CPR for healthcare provider	0	89
Leon	Matthew	182330	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	24	55
Levy	Steven	163949	Associate Member		Firefighter	Firefighter II	Paramedic (FL)	7	37
Lira	Jorge	179380	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	0	29
Louvaris	John	078	Regular Member		Deputy Chief	Firefighter II-D/E - Officer I	CPR for healthcare provider	38	236
Mangin	Andrew	735	Associate Member		Firefighter	Firefighter II - D/E	Paramedic (FL)	1	29
McFarlane	Harrison	170230	Associate Member		Firefighter	Firefighter II	CPR for healthcare provider	0	26
Obsaint	Antoinette	165334	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	0	35
Paine	Kyle	173	Regular Member		Firefighter	Firefighter II	EMT-B (FL)	0	73
Palne	Riley	704	Regular Member		Battalion Chief	Firefighter II-D/E - Officer I	Paramedic (FL)	24	182
Palne	Stephen	140	Regular Member		Fire Marshal	Firefighter II	CPR for healthcare provider	17	115
Scott, III	Kenneth	7011	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	0	29
Silverstone	James	25	Regular Member	*	Firefighter	Firefighter II	CPR for healthcare provider	27	168
St.Thomas	Jeffrey	176	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	0	48
Sweeting	Quintoro	180167	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	0	9
Velez	Dustin	170754	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	0	6
Vogel	Richard	130	Regular Member		Firefighter	Firefighter II	Paramedic (FL)	0	55
Weisberg	Lee	6034	Associate Member		Firefighter	Firefighter II	Paramedic (FL)	0	17
Woods	Devon	7018	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	0	31

Monthly Activity Report - April 2020

Date	Fire/Rescue Calls	Event Description	Start Time	End Time	No. of FF
01-Apr-20	224 Codrington Drive	Other fire - burnt food	10:02:00 AM	10:10:00 AM	7
01-Apr-20	4561 W Tradewinds Ave.	Electrical utility fire	4:15:00 PM	4:37:00 PM	10
01-Apr-20	1900 South Ocean Blvd.	Other fire - waterpump	10:29:00 PM	10:34:00 PM	7
27-Apr-20	5100 North Ocean Drive	Fire alarm	7:24:00 PM	7:38:00 PM	10
28-Apr-20	3900 North Ocean Drive	Elevator rescue	12:13:00 PM	12:30:00 PM	10
29-Apr-20	1750 South Ocean Blvd.	Elevator rescue	4:45:00 AM	5:04:00 AM	5
29-Apr-20	4117 Bougainville Drive	Other fire - forcible entry	8:26:00 PM	9:09:00 PM	7
29-Apr-20	4001 North Ocean Drive	Fire alarm	10:08:00 PM	10:17:00 PM	10
04-Apr-20	1800 South Ocean Blvd.	Elevator rescue	1:31:00 AM	1:49:00 AM	8
06-Apr-20	4614 SeaGrape Drive	Other fire - animal rescue	10:03:00 AM	10:18:00 AM	10
06-Apr-20	3 Sunset Lane	Other fire - open hydrant	2:05:00 PM	2:20:00 PM	10
07-Apr-20	1460 South Ocean Blvd.	Fire alarm	6:58:00 AM	7:14:00 AM	9
07-Apr-20	3250 Spanish River Dr.	Fire alarm	2:12:00 PM	2:20:00 PM	7
08-Apr-20	221 Commercial Blvd.	Other fire - shooting	1:43:00 PM	1:52:00 PM	5
08-Apr-20	Ocean & Commercial	Accident w/injuries	2:28:00 PM	2:35:00 PM	9
09-Apr-20	255 Commercial Blvd.	Elevator rescue	9:07:00 AM	9:26:00 AM	8
09-Apr-20	259 Miramar Avenue	Electrical/utility fire	11:54:00 AM	12:07:00 PM	9
10-Apr-20	2021 Waters Edge	Fuel spill	3:44:00 PM	4:09:00 PM	9
12-Apr-20	5200 North Ocean Drive	Fire alarm	9:15:00 AM	9:34:00 AM	7
12-Apr-20	1430 South Ocean Blvd.	Other fire - suspicious incident	9:34:00 AM	10:34:00 AM	7
12-Apr-20	4900 North Ocean Blvd.	Fire alarm	7:23:00 PM	7:37:00 PM	6
13-Apr-20	223 Marine Court	Drowning	2:56:00 PM	3:00:00 PM	9
17-Apr-20	1700 South Ocean Blvd.	Fire alarm	2:42:00 PM	2:51:00 PM	10
17-Apr-20	1850 South Ocean Blvd.	Fire alarm	6:52:00 PM	7:24:00 PM	9
18-Apr-20	Flamingo Ave & N. Ocean	Other fire - hydrant flowing	7:38:00 AM	7:43:00 AM	9
18-Apr-20	1470 South Ocean Blvd.	Fire alarm	3:48:00 PM	4:26:00 PM	5
18-Apr-20	Ocean & Flamingo Ave	Other fire - open hydrant	6:14:00 PM	6:29:00 PM	5
18-Apr-20	1470 South Ocean Blvd.	Fire alarm	6:16:00 PM	6:29:00 PM	5
20-Apr-20	1750 South Ocean Blvd.	Fire alarm	9:50:00 AM	10:09:00 AM	7
20-Apr-20	4658 Bougainville Drive	Other fire - lockout vehicle	9:53:00 PM		4
22-Apr-20	4552 North Ocean Drive	Other fire - forcible entry	8:21:00 AM	9:12:00 AM	8
24-Apr-20	Seagrape/N Tradewinds	Other fire - racoon stuck in drain	5:26:00 PM	5:41:00 PM	6
26-Apr-20	4900 North Ocean Blvd.	Other fire - boat in distress	2:22:00 PM	3:36:00 PM	8
27-Apr-20	1501 South Ocean Blvd.	Other fire - Well check	7:23:00 AM	7:39:00 AM	4
27-Apr-20	Bougainville/Commer.	Vehicle accident w/injuries	7:06:00 PM	7:54:00 PM	10
Total Calls			35		

Date	1st Responder Calls	Event Description	Start Time	End Time	No. of FF
02-Apr-20	North Ocean Drive	medical, E12 assisted R54	12:40:00 PM	1:59:00 PM	8
28-Apr-20	South Ocean Blvd.	medical, E12 assisted M12	5:59:00 PM	6:16:00 PM	4
29-Apr-20	North Ocean Drive	medical, E12 standby at station	2:37:00 AM	3:33:00 AM	4
29-Apr-20	South Ocean Blvd.	medical, canceled at station	10:29:00 PM	11:43:00 PM	8
30-Apr-20	South Ocean Blvd.	medical, E12 standby at station	4:13:00 PM	5:26:00 PM	6
03-Apr-20	South Ocean Blvd.	medical, cleared wrong zone	10:35:00 AM	10:41:00 AM	8
10-Apr-20	South Ocean Blvd.	medical, E12 canceled en route by M12	1:29:00 PM	1:45:00 PM	6
12-Apr-20	Palm Club Drive	medical, E12 standby at station	8:28:00 PM	9:24:00 PM	4
Total Calls			8		

Date	Public Service	Event Description	Start Time	End Time	No. of FF
There was no public services for this month					

Date	Drill/Training	Event Description	Start Time	End Time	No. of FF
There was no Fire/Ocean rescue training drills for this month					
08-Apr-20	238 Garden Court	Fire Sprinkler permit inspection @Sky 230	2:00:00 PM	3:00:00 PM	5
23-Apr-20	1500 South Ocean Blvd.	Permit/Sprinkler Pump test @Leisure Towers	10:00:00 AM	12:30:00 PM	5

Date	Ocean Rescue	Event Description	Start Time	End Time	No. of FF
There was no ocean rescue for this month - beaches closed					

Unit Response Time 3- Month Average

Apr-20

Apparatus	Batt. Chief 12	Engine 12	Engine 212	Squirt 12
Call Count	33	40	0	7
Response Time	0:05:07	0:4:58	0:00:00	0:00:00

Total Average Response Time : 4:59

Mar-20

Apparatus	Batt. Chief 12	Engine 12	Engine 212	Squirt 12
Call Count	38	43	11	8
Response Time	0:04:37	0:04:54	0:00:00	0:00:00

Total Average Response Time : 4:42

Feb-20

Apparatus	Batt. Chief 12	Engine 12	Engine 212	Squirt 12
Call Count	55	62	11	6
Response Time	0:05:04	0:04:43	0:00:00	0:00:00

Total Average Response Time : 4:59



Town Commission Agenda Item Report

Meeting Date: May 12, 2020

Submitted by: Brooke Liddle

Submitting Department: Public Safety

Item Type: Report

Agenda Section: PUBLIC SAFETY DISCUSSION

Subject Title:

AMR April 2020 Report (Chief Brooke Liddle, AMR)

Explanation:

AMR April 2020 Report

Recommendation:

Approve/Accept

Attachments:

1. AMR April Report

Date	Address	Dispatched	Enroute	On Scene	Response Time
4/12/2020	1400 Blk S Ocean Blvd	4/12/20 9:41	4/12/20 9:41	4/12/20 9:41	00:00:07
4/8/2020	200 Blk Commercial Blvd	4/8/20 12:46	4/8/20 12:48	4/8/20 12:48	00:01:55
4/2/2020	1800 Blk S Ocean Blvd	4/2/20 12:24	4/2/20 12:26	4/2/20 12:26	00:02:12
4/24/2020	1400 Blk S Ocean Blvd	4/24/20 10:36	4/24/20 10:36	4/24/20 10:39	00:02:19
4/24/2020	4100 Blk Bougainvilla Dr	4/24/20 0:57	4/24/20 0:57	4/24/20 1:00	00:02:22
4/8/2020	1400 Blk S Ocean Blvd	4/8/20 10:56	4/8/20 10:56	4/8/20 10:58	00:02:24
4/1/2020	1800 Blk S Ocean Blvd	4/1/20 12:41	4/1/20 12:41	4/1/20 12:43	00:02:47
4/26/2020	200 Blk Imperial Ln	4/26/20 15:31	4/26/20 15:31	4/26/20 15:33	00:02:47
4/8/2020	N Ocean Dr/Commercial Blvd	4/8/20 14:29	4/8/20 14:32	4/8/20 14:32	00:02:59
4/14/2020	3900 Blk N Ocean Dr	4/14/20 9:08	4/14/20 9:10	4/14/20 9:11	00:03:02
4/27/2020	1600 Blk S Ocean Blvd	4/27/20 12:27	4/27/20 12:27	4/27/20 12:30	00:03:04
4/16/2020	4500 Blk N Ocean Dr	4/16/20 2:43	4/16/20 2:45	4/16/20 2:46	00:03:12
4/26/2020	4100 Blk El Mar Dr	4/26/20 14:15	4/26/20 14:16	4/26/20 14:18	00:03:25
4/6/2020	1600 Blk S Ocean Blvd	4/6/20 8:38	4/6/20 8:39	4/6/20 8:41	00:03:26
4/13/2020	3900 Blk N Ocean Dr	4/13/20 11:13	4/13/20 11:15	4/13/20 11:16	00:03:33
4/10/2020	1400 Blk S Ocean Blvd	4/10/20 20:06	4/10/20 20:07	4/10/20 20:10	00:03:36
4/22/2020	4500 Blk N Ocean Dr	4/22/20 8:18	4/22/20 8:18	4/22/20 8:22	00:03:37
4/5/2020	4600 Blk Bougainvilla Dr	4/5/20 14:54	4/5/20 14:55	4/5/20 14:57	00:03:39
4/27/2020	Bougainvilla Dr/Commercial Blvd	4/27/20 19:06	4/27/20 19:10	4/27/20 19:10	00:03:40
4/1/2020	4300 Blk Bougainvilla Dr	4/1/20 19:30	4/1/20 19:31	4/1/20 19:34	00:03:41
4/23/2020	4300 Blk Seagrape Dr	4/23/20 23:20	4/23/20 23:21	4/23/20 23:24	00:03:41
4/19/2020	2000 Blk S Ocean Blvd	4/19/20 10:04	4/19/20 10:06	4/19/20 10:07	00:03:42
4/22/2020	5100 Blk N Ocean Blvd	4/22/20 18:48	4/22/20 18:50	4/22/20 18:52	00:03:42
4/8/2020	1400 Blk S Ocean Blvd	4/8/20 14:53	4/8/20 14:53	4/8/20 14:57	00:03:48
4/12/2020	5500 Blk N Ocean Blvd	4/12/20 9:22	4/12/20 9:23	4/12/20 9:26	00:03:49
4/24/2020	1900 Blk S Ocean Blvd	4/24/20 15:12	4/24/20 15:15	4/24/20 15:16	00:03:51
4/3/2020	4600 Blk N Ocean Dr	4/3/20 4:00	4/3/20 4:02	4/3/20 4:03	00:03:52
4/17/2020	4600 Blk Bougainvilla Dr	4/17/20 22:50	4/17/20 22:51	4/17/20 22:54	00:03:53
4/6/2020	5200 Blk N Ocean Blvd	4/6/20 22:27	4/6/20 22:30	4/6/20 22:31	00:03:57
4/1/2020	1800 Blk S Ocean Blvd	4/1/20 5:05	4/1/20 5:07	4/1/20 5:09	00:03:58
4/3/2020	El Mar Dr/Washington Ave	4/3/20 1:30	4/3/20 1:34	4/3/20 1:34	00:04:00
4/12/2020	100 Blk Palm Clb	4/12/20 20:29	4/12/20 20:30	4/12/20 20:34	00:04:03
4/2/2020	3900 Blk N Ocean Dr	4/2/20 2:59	4/2/20 3:01	4/2/20 3:03	00:04:03
4/30/2020	1800 Blk S Ocean Blvd	4/30/20 16:15	4/30/20 16:17	4/30/20 16:19	00:04:04
4/29/2020	4100 Blk Bougainvilla Dr	4/29/20 20:27	4/29/20 20:28	4/29/20 20:31	00:04:05
4/25/2020	4900 Blk N Ocean Blvd	4/25/20 13:14	4/25/20 13:17	4/25/20 13:18	00:04:07
4/10/2020	1300 Blk S Ocean Blvd	4/10/20 13:32	4/10/20 13:32	4/10/20 13:36	00:04:07
4/29/2020	1700 Blk S Ocean Blvd	4/29/20 22:30	4/29/20 22:30	4/29/20 22:35	00:04:20
4/29/2020	5000 Blk N Ocean Blvd	4/29/20 2:38	4/29/20 2:39	4/29/20 2:42	00:04:22
4/19/2020	4300 Blk El Mar Dr	4/19/20 16:07	4/19/20 16:09	4/19/20 16:11	00:04:25
4/5/2020	5100 Blk N Ocean Blvd	4/5/20 17:52	4/5/20 17:54	4/5/20 17:56	00:04:26
4/7/2020	5200 Blk N Ocean Blvd	4/7/20 16:21	4/7/20 16:23	4/7/20 16:25	00:04:35
4/6/2020	200 Blk Imperial Ln	4/6/20 6:23	4/6/20 6:24	4/6/20 6:28	00:04:40
4/3/2020	1400 Blk S Ocean Blvd	4/3/20 10:36	4/3/20 10:38	4/3/20 10:40	00:04:46
4/2/2020	1900 Blk E Terra Mar Dr	4/2/20 12:13	4/2/20 12:14	4/2/20 12:18	00:04:49
4/29/2020	1700 Blk S Ocean Blvd	4/29/20 12:51	4/29/20 12:52	4/29/20 12:56	00:05:02
4/5/2020	4600 Blk Bougainvilla Dr	4/5/20 1:29	4/5/20 1:35	4/5/20 1:35	00:05:41
4/18/2020	1600 Blk Bel-Air Ave	4/18/20 23:57	4/18/20 23:58	4/19/20 0:03	00:05:41
	6 min or less = 100%			Average =	03:42:00



Town Commission Agenda Item Report

Meeting Date: May 12, 2020

Submitted by: Bill Vance, Town Manager; Neysa Herrera, Assistant to the Town Manager

Submitting Department: Administration

Item Type: Report

Agenda Section: TOWN MANAGER REPORT

Subject Title: Town Manager Report

Explanation:

- ❖ On April 28th, Broward County Administrator Bertha Henry signed Emergency Order 20-08, effective April 29th. The County Order authorized the limited reopening of select parks, natural areas, boat ramps, marinas, golf courses, private pools in multifamily developments and condos, and other recreational amenities. Notwithstanding the limited reopening of these facilities, all individuals shall continue to adhere to the CDC guidelines. At this time, all Broward County Beaches, including Lauderdale-By-The-Sea beaches, remain closed.
- ❖ At the May 22nd Oversight Board Meeting, the MPO will present its list of recommended projects for funding under the Broward Transportation Surtax Program Cycle 1 (FY20). The two (2) Town projects that are being recommended for funding are:

- El Mar Drive Improvements: \$240,000 (Design)
- Bicycle Infrastructure: \$360,000 (Design)

Should the Oversight Board deem these projects eligible for Surtax funding, the Board will make a recommendation to the Broward County Board of Commissioners, which will consider and approve the funding allocation in

- ❖ The Town of Lauderdale-By-The-Sea has been very fortunate to have Dennis Royes as our full-time Pelican Hopper driver since 2005. Dennis has decided to retire from our route, effective immediately. Dennis has always received the kindest compliments from our riders because of his exceptional customer service to each and every one of the Hopper's loyal family. Town staff, on behalf of our community, thank Dennis for his fifteen years of service to our Town. At the May 26th Town Commission meeting, staff will be recognizing Dennis with a proclamation in honor of his outstanding service.
- ❖ **You are still on time to fill out your 2020 Census form!** To date, the Town's response rate is at 38% and continues to be behind the County (53%) and the State (55%). The deadline to submit responses has been extended to **October 31**. Town staff continues to encourage residents to fill out their census forms and ask friends and neighbors to submit their forms in order to increase the response rate. The Census information is used in a variety of ways, most importantly, it is used to determine the financial amount communities may receive in federal assistance. You can complete your census form at www.my2020census.gov. It takes no more than 5 minutes.

- ❖ The Finance Department is excited to announce the Town received the audit draft from the auditors with no findings (clean audit opinion). Staff is now working on the preparation of Town's Comprehensive Financial Report (CAFR). The final report is expected to be completed in June.

Funding Opportunities

The Town of Lauderdale-By-The-Sea is eligible for \$50,000 in grant monies pertaining to the prevention, preparation, and response to COVID-19, under the **Coronavirus Emergency Supplemental Funding (CESF)** Program. Funds awarded under the CESF Program must be utilized to prevent, prepare for, and respond to the coronavirus. The deadline to submit applications is May 29.

The application cycle for the **CDBG-MIT Critical Facilities Hardening Program** is open through June 30. Activities associated with the hardening of the Fire/Police building, including, but not limited to dry and wet proofing, anchoring roof mounted heating, ventilation and ac units, retrofitting buildings, energy resiliency, flood mitigation, are eligible under this program. Town Manager Bill Vance has requested Manny Synalovski, the consultant doing the Public Safety Facility Needs Assessment for the Town, to prepare a proposal for an application to this grant. The requested funds would be used for hardening and mitigation work to the BSO/VFD building.

Development Services

The Governor has placed significant limitations on **Vacation Rentals** but they are still able to rent on a monthly basis to essential personnel. Code Enforcement staff, in close coordination with Development Services Director Linda Connors, have contacted our registered vacation rental agents to determine if their property is vacant, remind them of the restrictions and answer any questions that they may have. This information is important so that staff can quickly convey information to the public when they raise concerns to the Town about properties being rented.

Development Services continues to move towards protecting the community and our staff through limiting our personal interactions. Last month, we were able to establish online permitting. This month we are testing out **Virtual Inspections**. On Friday, May 8, the Town conducted the first virtual inspection for a vacation rental, which included Code, Fire, and Building divisions. Staff is also working with CAP to have their Virtual Inspection process available for Town residents.

Updates to the **Business Tax Receipt** process are ongoing. Over the past several weeks, Development Services staff has been updating all of our applications to make them more user friendly. We are working with Finance and Administrative staff toward upgrading our computer capabilities to allow online payments – yet another way to limit unnecessary contact with the public.

Capital Improvement Projects

The design of the Palm Club Septic to Sewer Project is now at 50%. The plans were transmitted to the Palm Club Resident's Working Group for their review and comments. The next public outreach will take place when design reaches 75% completion, which is anticipated to take place in early July.

The **El Mar Drive Design** Survey Data Report and Analysis have been posted on the project website: lbtseimar.com. Staff is working with EDSA, the project design firm, to schedule a second public outreach session. More information to follow.

The bathymetric survey for the **Dredging Study** has been completed. Initial review of survey did not reveal any immediate areas of concern. The Benthic survey (assess the health of the coastal waters) is anticipated to take place in June at the earliest. A full report will be submitted to the Commission at the conclusion of the study.

The **Stormwater Master Plan Update** is underway. Town staff is encouraging Town residents to fill out the online drainage survey. The link to the survey can be found on the Town's website: https://www.surveymonkey.com/r/Public_Drainage

Responses are due by May 31st. The information collected from this survey will help identify the flood prone areas that need to be addressed and included in the CIP Plan.

Other Projects

Weeding and installation of mulch is taking place on the **South A1A Median** to finalize the project.

Landscaping Improvements on Commercial between A1A & El Mar are taking place. Dead/dying bushes have been removed from the planting beds. Staff is currently reviewing new planting options.

The surveys for five (5) **bus shelters** are complete and building permits are in process of being submitted to the Town. Staff is working with the County to determine the next steps to present a request for funding approval for our survey company at the next Town Commission meeting.

On Thursday, May 7, ChargePoint installed the **EV Charging station** in the A1A lot. Electric car users, will be able to find the station via the ChargePoint App, Google Maps, Apple Maps.

All underground wiring for **Town-wide security cameras** has been completed. Staff is awaiting arrival of the poles to mount the cameras, which have been delayed due to COVID 19. This project is anticipated to be completed in Summer this year.

On Monday, May 7, Municipal Services staff installed a **hand-washing station at the public safety building**.

Recommendation: N/A

Attachments:

1. Properties with Fines over \$75,000
2. Properties with Active Code Violations



Properties with Fines over \$75,000*

In Litigation/Foreclosure			Violation	Accrued	Daily
1)	4521	N Ocean Dr (6 Units, Thunderbird)	Pole Sign, Structural Maintenance	\$977,950	\$300
Florida Development Group Properties			Violation	Accrued	Daily
2)	4108	El Mar Dr (now vacant lot)	WWOP, Structural, Electric, 40-Year	\$4,703,010	\$0
3)	4116	N Ocean Dr (Old Holiday Inn)	Structural, Electrical Maintenance	\$2,435,672	\$400
Other Properties			Violation	Accrued	Daily
4)	4326	N Ocean Drive (4 Units, 4326 Ocean Dr LLC)	Structural, Paint, Bees	\$459,250	\$400
5)	4648	Bougainvillea Dr (5 Units, Patricia Pereira)	Inoperative Vehicle; Maintenance	\$414,475	\$250
6)	226/230	Basin Dr (Marina)	Unsafe Dock, WWOP, Boats	\$369,500	\$0
7)	5000	N Ocean Dr #1711 (Condo, BricMayFL)	WWOP (Interior Alterations)	\$313,450	\$200
8)	4132	N Ocean Dr (Sea Lord Construction Site)	WWOP (sign), Delinquent BTR	\$200,275	\$0
9)	4617	El Mar Dr (Dee Jay Beach Resort)	WWOP (Seal and Stripe)	\$165,450	\$100
10)	1800	S Ocean Blvd #1307 (Condo, Sonia Imerti)	WWOP (Kitchen Cabinets/Counters)	\$135,250	\$100
TOTAL.....				\$9,715,033	

Notes

* 1931 Waters Edge liens reviewed by Town Attorney and removed from this list due to Foreclosure Order.

Abbreviations Key

OVG	Overgrown Grass
WWOP	Work Without Permits
Lx	Landscape Maintenance
BTR	Business Tax Receipt
PWL	Purchased w/ Knowledge of Lien(s)

*As of Friday, May 8, 2020

Case #	Property Address	Incident Type	Owner Name
42910	106 E COMMERCIAL BLVD	Sign Violations	KAVON ENTERPRISES INC % JENNIFER NOVAK-LECKOWICZ
42909	112 E COMMERCIAL BLVD	Sign Violations	CIANI,ELAYNA CIANI,WILLIAM
42906	14 E COMMERCIAL BLVD	Sign Violations	ANGLIN FAM TR % RAYMOND ANGLIN
18050001	1439 S OCEAN BLVD	Property Maintenance	DICAIRE,LOUISE NADEAU RICHARD,LOUISE
18050002	1439 S OCEAN BLVD	Property Maintenance	SENOJ ENTERPRISE LLC
18050003	1439 S OCEAN BLVD	Property Maintenance	BLAND,ROSA
18050004	1439 S OCEAN BLVD	Property Maintenance	ROBITAILLE,ANDRE
18050005	1439 S OCEAN BLVD	Property Maintenance	RHEAUME,SYLVIA R LE RHEAUME,DEBRA J
18050006	1439 S OCEAN BLVD	Property Maintenance	KROLEWSKI, DEANA JO
18050007	1439 S OCEAN BLVD	Property Maintenance	BROWN,MARK H CORGEE,JAMES R
18050008	1439 S OCEAN BLVD	Property Maintenance	CULLINAN FAMILY TRUST
18050009	1439 S OCEAN BLVD	Property Maintenance	GALVIN,JOHN R & ANDREA A
18050010	1439 S OCEAN BLVD	Property Maintenance	THOMPSON, JANICE
18050011	1439 S OCEAN BLVD	Property Maintenance	PAQUET, GILLES
18050012	1439 S OCEAN BLVD	Property Maintenance	LUZ PATRICIA RESTREPO REV TR RESTREPO,LUZ PATRICIA TRSTEE
18050013	1439 S OCEAN BLVD	Property Maintenance	GOOD,SHAWN
18050014	1439 S OCEAN BLVD	Property Maintenance	ZIMMERMAN,ANNETTE ZIMMERMAN,JAMES
18050015	1439 S OCEAN BLVD	Property Maintenance	ZEMACH,JOEL
18050016	1439 S OCEAN BLVD	Property Maintenance	BAJDO, MARIA AURA
18050017	1439 S OCEAN BLVD	Property Maintenance	GODDARD,DULCE GALINDO GODDARD,GARY WILLIAM
18050019	1439 S OCEAN BLVD	Property Maintenance	WHITELEATHER,DANIEL
18050020	1439 S OCEAN BLVD	Property Maintenance	TREZZA,ANTHONY TREZZA,JEANA
18050021	1439 S OCEAN BLVD	Property Maintenance	SCHAEFER,CURTIS L & CATHERINE A
18050022	1439 S OCEAN BLVD	Property Maintenance	MACHADO, FRANCISCO MACHADO, STEFANY
18050023	1439 S OCEAN BLVD	Property Maintenance	PRUIS, GERRIT J & BARBARA C
18050025	1439 S OCEAN BLVD	Property Maintenance	WHITE-DUARTE,MARCIO WHITE-DUARTE,MICHAEL E
18050026	1439 S OCEAN BLVD	Property Maintenance	DANSA CORPORATION
18050027	1439 S OCEAN BLVD	Property Maintenance	SMITH, SONIA
18050028	1439 S OCEAN BLVD	Property Maintenance	SAWICKI,STANLEY D
18050029	1439 S OCEAN BLVD	Property Maintenance	MASTRO,JOSEPH & MARY LE JOSEPH & MARY MASTRO REV LIV TR
18050030	1439 S OCEAN BLVD	Property Maintenance	CASTRO VOLLO, MARCELA
18050031	1439 S OCEAN BLVD	Property Maintenance	NOMADERIA INC
18050032	1439 S OCEAN BLVD	Property Maintenance	FEREIRA & REYES LLC
18050033	1439 S OCEAN BLVD	Property Maintenance	FEREIRA & REYES LLC
18050034	1439 S OCEAN BLVD	Property Maintenance	KLINE,NORMAN & MARLYN
18050035	1439 S OCEAN BLVD	Property Maintenance	POULIOT FAMILY LIMITED PARTNERSHIP
18050036	1439 S OCEAN BLVD	Property Maintenance	BRENNAN,MARIA C H/E BRENNAN,KARINA
18050037	1439 S OCEAN BLVD	Property Maintenance	STROM.TERJE MIKAL STROM,MONA KRISTIN FILTVEDT
18050038	1439 S OCEAN BLVD	Property Maintenance	VIOLA,MAXIMILIAN

18050039	1439 S OCEAN BLVD	Property Maintenance	VITALE,ROSE
18050040	1439 S OCEAN BLVD	Property Maintenance	MCGHEE,JESSIE MARILYN MCGHEE,WILLIAM MCKAY
18050041	1439 S OCEAN BLVD	Property Maintenance	VIA SALES & LEASING INC
18050042	1439 S OCEAN BLVD	Property Maintenance	MOUSSA,SOUFAINE BEN TOUATI,HEDI
18050043	1439 S OCEAN BLVD	Property Maintenance	HOARD,GREG & HOARD,NANCY
18050044	1439 S OCEAN BLVD	Property Maintenance	POULIOT FAMILY LIMITED PARTNERSHIP
18050045	1439 S OCEAN BLVD	Property Maintenance	ANNE MICHAELIDES REV TR /MICHAELIDES,ANNE TRSTEE
18050046	1439 S OCEAN BLVD	Property Maintenance	PIZZI,THOMAS III PIZZI,THOMAS JR ET AL
18050047	1439 S OCEAN BLVD	Property Maintenance	GUTHRIE,TIMOTHY F GUTHRIE,CARLA M
18050048	1439 S OCEAN BLVD	Property Maintenance	POULIOT FAM LIMITED PARTNERSHIP
18050049	1439 S OCEAN BLVD	Property Maintenance	SCHWEITZER,MICHAEL K
18050050	1439 S OCEAN BLVD	Property Maintenance	GALULLO,KATHY ANN
18050058	1439 S OCEAN BLVD	Property Maintenance	HD PARTS LLC
18050059	1439 S OCEAN BLVD	Property Maintenance	DA SILVA, ORIVALDO PEREIRA DA SILVA, MARCIA
41358	1439 S OCEAN BLVD	Permits Required Violations	THOMPSON, JANICE
16020013	1800 S OCEAN Blvd	Building Code Violations	IMERTI,SONIA
42811	1925 SAILFISH PL	Parking or Storage of Trailers	D'AMICO,MICHAEL
15090002	1931 WATERS EDGE	Recreational Vehicles& Boats Violations	BREITBERG,DYANE
19040010	1931 WATERS EDGE	Permits Required Violations	GILCHRIST,RAEL M GILCHRIST,LOURDES L
18020015	2 E COMMERCIAL BLVD	Property Maintenance	ANGLIN FAM TR % RAYMOND ANGLIN
18010014	2000 S OCEAN BLVD	Building Code Violations	GARIEPY,LYNNE
20040002	2030 CORAL REEF DR	Permits Required Violations	YAVNEH,JONATHAN S & EMMARIE L
42835	2030 CORAL REEF DR	Landscape Violations	YAVNEH, EMMARIE LOPEZ YAVNEH, JONATHAN SCOTT
42907	207 COMMERCIAL BLVD	Sign Violations	SABATINI INVESTMENTS LLC
42908	207 COMMERCIAL BLVD	Sign Violations	SABATINI INVESTMENTS LLC
38319	217 E COMMERCIAL BLVD	Business Tax	SERAFINI,SILVIO & ANA E
39398	217 E COMMERCIAL BLVD	Sign Violations	SERAFINI,SILVIO & ANA E
37871	218 E COMMERCIAL BLVD	Business Tax	ACS 218 LLC
42905	218 E COMMERCIAL BLVD	Sign Violations	ACS 218 LLC
42904	222 E COMMERCIAL BLVD	Sign Violations	ACS 218 LLC
42901	227 E COMMERCIAL BLVD	Sign Violations	GSE BY-THE-SEA LLC
42862	229 E COMMERCIAL BLVD	Citizen Complaints	SABATINI INVESTMENTS LLC
18070009	230 LAKE CT	Business Tax	SKY007 LLC
42705	230 LAKE CT	Zoning Violations	SKY007 LLC
42898	235 E COMMERCIAL BLVD	Sign Violations	MJB CHELSEA LLC
42900	238 COMMERCIAL BLVD	Sign Violations	NLV INC
41332	251 ALGIERS AVE	Landscape Violations	GALLAGHER,LOUISE R
42897	253 E COMMERCIAL BLVD	Sign Violations	D J & G BY THE SEA LLC
42899	253 E COMMERCIAL BLVD	Sign Violations	D J & G BY THE SEA LLC
42882	259 COMMERCIAL BLVD	Sign Violations	VICNSONS REALTY GROUP LLC

42891	259 COMMERCIAL BLVD	Sign Violations	VICNSONS REALTY GROUP LLC
42723	259 HIBISCUS AVE	BTR Housing Inspection	DANIELS,BARBARA DANIELS,JONATHAN W
19060005	262 CORSAIR AVE	Permits Required Violations	KYTHIRA LLC
42880	263 COMMERCIAL BLVD	Sign Violations	VICNSONS REALTY GROUP LLC
19040009	267 CAPRI AVE	Zoning Violations	BRANDT,YANN
40802	267 OCEANIC AVE	Web Citizen Complaint	FISTEL,LILIANA
40053	268 NEPTUNE AVE	Nuisance	WALLER,ROBERT
41312	272 ALLENWOOD DR	Property Maintenance	BJORKMAN,PATRICIA
19040014	3211 S TERRA MAR DR	Permits Required Violations	BENTSEN,KIRSTEN BENTSEN,SAMUEL A
40967	3220 S TERRA MAR DR	Building Code Violations	DANIELSSON,LEIF
20030004	3250 SEAWARD DR	Permits Required Violations	SMITH, JUDITH A & ROBERT A JR
19050007	3900 N OCEAN DR	Building Code Violations	AMATURO,JOSEPH C & WINIFRED
42890	3900 N OCEAN DR	Building Code Violations	ERTLEY,CAROLE S
20020006	4051 N OCEAN DR	BTR Inspection/Commercial	4051 N OCEAN LLC
20030002	4105 N OCEAN DR	BTR Housing Inspection	4051 N OCEAN LLC
40495	4108 EL MAR DR	Nuisance	FDG SOUTH LLC
20030001	4109 N OCEAN DR	BTR Housing Inspection	4051 N OCEAN LLC
16120002	4116 N OCEAN DR	Property Maintenance	FDG SOUTH LLC
16120056	4116 N OCEAN DR	Building Code Violations	FDG SOUTH LLC
38573	4209 EL MAR DR	Zoning Violations	NOBLE Q ROBERTSON REV TR ROBERTSON,NOBLE Q TRSTEE
40976	4220 SEAGRAPE DR	Business Tax	PALM LAKES III ASSOCIATES INC
19110001	4243 BOUGAINVILLA DR	Building Code Violations	POLAKOSKI,JOSEPH POLAKOSKI,MAGDALA
20020005	4245 N OCEAN DR	Minimum Standards for dwellings	THE DANIEL BOUTIQUE LLC
42872	4315 W TRADEWINDS AVE	Building Code Violations	ADAMSKI,DANIEL J ABDULLAH,KHAIRUDDIN H
17060028	4326 N OCEAN DR	Nuisance/Abandoned Homes	4326 OCEAN DR LLC
18110005	4326 N OCEAN DR	Permits Required Violations	4326 OCEAN DR LLC
18030025	4329 EL MAR DR	Property Maintenance	WENS HOLDING LLC
20020007	4430 SEAGRAPE DR	Vacation Rental	4430 SEA GRAPE DRIVE LLC
18030015	4521 N OCEAN DR	Property Maintenance	BELL,ROBERT K
18040026	4521 N OCEAN DR	Property Maintenance	BELL,ROBERT K
18040027	4521 N OCEAN DR	Sign Violations	BELL,ROBERT K
19040004	4521 N OCEAN DR	Landscape Violations	BELL,ROBERT K
39998	4525 POINCIANA ST	No Garbage/Trash Service	DAVIS,DAVID A DAVIS,CATALINA D
18060013	4548 POINCIANA ST	Vacation Rental	BARTCZAK,JENNIFER C MARCUS,PATRICK A
19080002	4552 POINCIANA ST	Permits Required Violations	4552 POINCIANA ST LLC
40509	4552 POINCIANA ST	Zoning Violations	4552 POINCIANA ST LLC
42817	4565 POINCIANA ST	Nuisance	PRYOR,JOHN A & PRYOR,JOSEPH E JR
20030005	4601 EL MAR DR	Permits Required Violations	KARAKAYA INC
14110003	4617 EL MAR Dr	Permits Required Violations	DEE JAY ENTERPRISES INC
19030002	4625 N OCEAN DR	Zoning Violations	SEA GARDEN BY THE SEA INC

18080003	4648 BOUGAINVILLE DR	Property Maintenance	PEREIRA,PATRICIA
19080004	4648 POINCIANA ST	Permits Required Violations	4648 INVESTMENTS LLC
40510	4648 POINCIANA ST	Zoning Violations	4648 INVESTMENTS LLC
38099	4652 POINCIANA ST	Property Maintenance	FAVALE,JOSEPH FAVALE,VINCENT MARIO
40594	4652 POINCIANA ST	Property Maintenance	MOECKEL,EDWARD W
40595	4652 POINCIANA ST	Property Maintenance	SENOUCI,CARL LE SENOUCI,JOSHUA
40596	4652 POINCIANA ST	Property Maintenance	WACHTER,WILHELM & EDITH
40597	4652 POINCIANA ST	Property Maintenance	ROBERTO,JOHN A
40598	4652 POINCIANA ST	Property Maintenance	MOECKEL,EDWARD W. EST
40599	4652 POINCIANA ST	Property Maintenance	BROOKS,WILLIE J WILSON-BROOKS,SUSAN K
40600	4652 POINCIANA ST	Property Maintenance	SENOUCI,BRAHIM
15110003	5000 N OCEAN BLVD	Building Code Violations	BRICMAYFL LLC
41544	5400 N OCEAN BLVD	Property Maintenance	JOSEPH,MARC
20040001	6000 N OCEAN BLVD	Permits Required Violations	BRENNER,WILLIAM J TOTH,JOHANNA



Town Commission Agenda Item Report

Meeting Date: May 12, 2020

Submitted by: Tedra Allen

Submitting Department: Administration

Item Type: Minutes

Agenda Section: APPROVAL OF MINUTES

Subject Title:

April 14, 2020 Town Commission Meeting Minutes (Tedra Allen, Town Clerk)

Explanation:

April 14, 2020 Town Commission Meeting Minutes

Recommendation:

Approve/Accept

Attachments:

1. April 14, 2020 Town Commission Meeting Minutes

**MEETING MINUTES
TOWN OF LAUDERDALE-BY-THE-SEA
TOWN COMMISSION
VIRTUAL REGULAR MEETING MINUTES
Jarvis Hall
4505 Ocean Drive
Tuesday, April 14, 2020
6:30 PM**

1. CALL TO ORDER

Mayor Chris Vincent called the meeting to order at 6:31 p.m. Also present via teleconference were Vice Mayor Elliot Sokolow, Commissioner Edmund Malkoon, Commissioner Alfred “Buz” Oldaker, Commissioner Randy Strauss, Town Manager Bill Vance, Town Attorney Susan L. Trevarthen, Assistant to the Town Manager Neysa Herrera, Finance Director Lucila Lang, Municipal Services Director Ken Rubach, Town Engineer Jay Flynn, Development Services Director Linda Connors, and Town Clerk Tedra Allen.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION – Moment of Silence

All present observed a moment of silence.

4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS

None.

5. PRESENTATIONS

None.

6. PUBLIC COMMENTS

At this time Mayor Vincent opened public comment.

Town Clerk Tedra Allen read the following public comments:

- Stuart Dodd, resident, addressed Item 12.a, the El Mar Drive public participation meeting, stating that it would be irresponsible to spend any Town funds on this project under present circumstances and recommending that these dollars instead be invested in improving the tourist experience

- Barbara Cole, resident, requested that the Commission address potential referendum items for inclusion on the November 2020 ballot, such as:
 - Extending the mayoral term beyond two years
 - Allowing the Mayor to run for a Commission seat consecutively
 - Addressing the height allowance for key properties on which structures have been demolished
 - Addressing Commissioners leaving office to run for mayor before their terms are complete
- Mike and Lisa Ferrara, residents, noted that plans for the El Mar Drive project were updated and approved the previous year and wished to know the work schedule for this project, as well as an update on the former Holiday Inn property
- Robert Noll, resident, wished to see a project constructed on the former Holiday Inn property before any project is undertaken on El Mar Drive
- Steward Pearlman, resident, requested that El Mar Drive be reduced to a single lane with a walkway in the median to encourage traffic calming
- David Olmo, Sloan's, addressed the shrubs in the garden areas. He would like to know if new shrubs can be planted (*Please note that this comment was not read aloud because it was received after general public comment and not related to the agenda items.)
- Bill Ciani, property owner, would like to ask that if the president opens up the states and if this is found to be the prevailing law would the town at least be in favor of partially opening up the beaches and providing an avenue where the businesses could also open in a safe limited way. (*Please note that this comment was not read aloud because it was received after general public comment)

With no other individuals submitting comments at this time, Mayor Vincent closed public comment.

7. PUBLIC SAFETY DISCUSSION

7.a VFD March 2020 Report (Chief Judson Hopping)

Volunteer Fire Department (VFD) Chief Judson Hopping advised that he has asked a number of Firefighters to self-quarantine. The VFD is currently operating with a reduced staff.

Commissioner Oldaker made a motion, seconded by Vice Mayor Sokolow, to approve. Motion carried 5-0.

7.b AMR March 2020 Report (Chief Brooke Liddle, AMR)

American Medical Response (AMR) Chief Brooke Liddle noted that there has been a significant decline in emergency calls over recent weeks, as many individuals are choosing not to go to emergency rooms or hospitals.

Commissioner Malkoon made a motion, seconded by Vice Mayor Sokolow, to approve. Motion carried 5-0.

7.c BSO March 2020 Report (Captain Thomas Palmer, BSO)

Broward Sheriff's Office (BSO) Captain Thomas Palmer recognized Deputy Scott Klier as March 2020 Deputy of the Month. BSO continues daily beach patrols and appreciates the assistance and cooperation of Town residents and businesses.

Captain Palmer continued that Broward County has issued an order for individuals to wear facial coverings while working in or patronizing essential businesses. BSO Staff has notified Town businesses to ensure they are aware of the order.

Vice Mayor Sokolow observed that many residents may not be aware that Florida's beaches were closed by order of the Governor's Office and/or Broward County. While the Town took the lead in closing its beaches on March 18, 2020 to address spring break traffic, it was later mandated by the Governor that beaches remain closed, which superseded local orders.

Commissioner Oldaker made a motion, seconded by Commissioner Malkoon, to approve. Motion carried 5-0.

8. TOWN MANAGER REPORT

8.a Town Manager Report (Bill Vance, Town Manager / Neysa Herrera, Assistant to the Town Manager)

Assistant to the Town Manager Neysa Herrera reported that the Town's beaches and nonessential businesses remain closed in accordance with the Governor's orders. Restaurants may remain open for takeout or delivery service only. Town Hall is closed to the public and Staff continues Town operations by telecommuting or working split shifts.

The Building Department is accepting permit applications using an outside bin at which plans may be dropped off, and inspections continue to take place. Development Services Director Linda Connors is working with CAP administration to provide a way to allow permit applications to be submitted online. Staff is testing this capacity before it is made available to the public.

Because it is in the best interest of both riders and drivers to reduce the Pelican Hopper community bus schedule, operations are currently limited to Mondays, Wednesdays, and Fridays from 9 a.m. to 5:30 p.m. The route extends to the Sea Ranch Center, the Galt area, and Holy Cross Hospital. Broward County Transit (BCT) has suspended fares on its bus routes until further notice.

Town Staff has worked closely with the Chamber of Commerce to keep businesses informed of assistance available through the federal government. Residents are also encouraged to sign up for updates related to COVID-19 on the Town website.

The 2020 U.S. Census is currently underway, and all residents are strongly encouraged to fill out their forms at www.my2020census.gov . Census information can help position the Town to receive federal assistance in the future.

The Development Services Director, Municipal Services Director, and Town Engineer are working with contractor EDSA, which was selected to assist with the design of the El Mar Drive project. These parties are working to make public outreach available to Town residents so they may provide input on the project.

Friedt Park courtyard improvements were approved by the Town Commission on February 14, 2020, and the construction plan for these improvements is expected to be underway soon. An Americans with Disabilities Act (ADA) sidewalk compliance study has been completed and Staff is reviewing the data provided by that contractor. Other ongoing and complete municipal projects include:

- South median landscaping
- Painting of the Friedt Park restrooms
- New lighting in the West Commercial Plazas
- Electric vehicle (EV) charging station at the A1A parking lot

Special Projects Coordinator Debbie Hime is working to ensure that Town residents are aware of the restaurants that are open for takeout and delivery during the COVID-19

crisis. She is also coordinating the launch of “Rediscover LBTS,” which is a geo-targeting campaign that highlights restaurants within walking distance of residences.

Commissioner Strauss advised that a form is available on the Town website to submit public input on the design of the El Mar Drive project.

Mayor Vincent requested clarification of recommendations related to face coverings for riders of the Pelican Hopper. Special Projects Coordinator Debbie Hime replied that both riders and drivers are asked to wear face coverings. Municipal Services Director Ken Rubach further clarified that the Town is expecting a shipment of face coverings that can be provided for riders who do not have them when boarding the bus.

Town Manager Bill Vance stated that the time frame for improvements to Friedt Park is approximately two to three months. This project is expected to proceed while precautions against the pandemic remain in place.

8.b January Finance Report (Lucila Lang, Finance Director)

Finance Director Lucila Lang advised that the February 2020 report will be presented at the next Town Commission meeting. Forthcoming reports will reflect the effects of the current state of emergency.

The Commissioners accepted the report without discussion.

9. TOWN ATTORNEY REPORT

None.

10. APPROVAL OF MINUTES

10.a March 10, 2020 Town Commission Meeting Minutes (Tedra Allen, Town Clerk)

Commissioner Oldaker made a motion, seconded by Commissioner Strauss, to approve. Motion carried 5-0.

10.b March 31, 2020 Virtual Town Commission Meeting Minutes (Tedra Allen, Town Clerk)

Commissioner Oldaker made a motion, seconded by Commissioner Strauss, to approve. Motion carried 5-0.

11. CONSENT AGENDA

None.

12. OLD BUSINESS

12.a El Mar Drive – Public Participation Meeting #1 (Linda Connors, Development Services Director)

Jeff Suiter and Alex Fenech of EDSA, the Town's contractor for the El Mar Drive project, recalled that a community outreach meeting on this project had originally been planned for March 31, 2020. Tonight's presentation is intended to be the first in a series of virtual or other outreach meetings that will gather information from the Town's residents and business owners.

Prior to the COVID-19 crisis, EDSA representatives visited Lauderdale-By-The-Sea and El Mar Drive so they would have a better understanding of the area. They have created boards, which are available on the project's web page, www.LBTSElMar.com, that reflect some of the unique aspects of El Mar Drive. A link is available from the Town's website to this page, which will include up-to-date information about the project.

Mr. Fenech reviewed the web page, which includes an introductory video for the project along with steps to complete the survey. The online public outreach session will begin on April 15, 2020, and will run through April 25. The page also includes a project overview written by EDSA's design team. Updates will be posted as milestones are met.

The online project survey will provide real-time data as residents continue to fill out the form. This will allow for quantifiable results that can be conveyed to the Commission when the outreach period closes on April 25. EDSA has additional interactive platforms that can be used to engage with residents once the COVID-19 crisis has passed. A printable copy of the survey is also available and can be filled out and placed in a dropbox outside Town Hall beginning on April 15, 2020.

Town Manager Vance asked if there will be other opportunities for interaction with the community in addition to the survey. Mr. Suiter replied that once the survey is complete, the boards will to be updated and a follow-up opportunity will be provided to residents.

Development Services Director Linda Connors added that the web page will include a section for frequently asked questions (FAQs).

Vice Mayor Sokolow addressed the concerns raised for Item 12.a under Public Comment, pointing out that there are sufficient funds remaining in the Oriana/El Mar Drive settlement to pay for the full design phase of the project. These dollars are earmarked and cannot be repurposed for uses other than El Mar Drive.

Development Services Director Connors reiterated that the deadline for the first survey is April 25, 2020, so information can be compiled and provided to the Commission at their next scheduled meeting. To encourage outreach, the Town has ordered banners to place on El Mar Drive as well as yard signs that will be placed in neighborhoods. Information will also be posted on the website and the Town's public access channel. Residents may also sign up for "Notify Me" service, which will provide them with emails about issues of interest in the Town. Emails are being sent to condominiums, the Chamber of Commerce, and Town businesses to encourage their participation in the survey.

13. NEW BUSINESS

13.a FY2020-21 Broward League of Cities Director Appointment (Tedra Allen, Town Clerk)

Town Clerk Allen explained that each member municipality of the Broward League of Cities is asked to appoint a Director, Alternate, and Second Alternate to attend and vote at any Board of Directors or general membership meeting of the League. As the new term will begin on May 16, 2020, the League requests that these appointments be made no later than April 30.

The following appointments were made:

- Director: Vice Mayor Sokolow
- Alternate: Commissioner Malkoon
- Second Alternate: Commissioner Strauss

Commissioner Oldaker made a motion, seconded by Vice Mayor Sokolow, to approve these appointments for fiscal year 2020/2021. Motion carried 5-0.

13.b Appointment of a Town Representative to the Hillsboro Inlet District (Tedra Allen, Town Clerk)

Commissioner Strauss volunteered to remain the representative of the Hillsboro Inlet District.

Vice Mayor Sokolow made a motion, seconded by Commissioner Oldaker, to approve the appointment of Commissioner Strauss as representative to the Hillsboro Inlet District. Motion carried 5-0.

13.c Appointment of a Town Representative to the Broward County Metropolitan Planning Organization (MPO) (Tedra Allen, Town Clerk)

Commissioner Oldaker offered to serve as the Town's representative to the Broward Metropolitan Planning Organization (MPO).

Vice Mayor Sokolow made a motion, seconded by Commissioner Strauss, to approve the appointment of Commissioner Oldaker to the Broward MPO. Motion carried 5-0.

13.d Appointment of a Town Representative to the AMR Review Board (Tedra Allen, Town Clerk)

Commissioner Malkoon volunteered to continue to serve as the Town's representative on the AMR Review Board.

Commissioner Oldaker made a motion, seconded by Vice Mayor Sokolow, to appoint Commissioner Malkoon to the AMR Review Board. Motion carried 5-0.

13.e Community Center Manager Position (Bill Vance, Town Manager)

Town Manager Vance advised that he would like to discuss an extension of services with current Community Center Director Armilio Bien-Aime for an additional number of years. This would involve making Mr. Bien-Aime a full-time rather than contractual employee. He pointed out that the Town is currently updating its job descriptions, which will include a description of the proposed Community Center Manager position. He requested direction from the Commission on this Item.

Mayor Vincent stated that the Commission will need to see a list of proposed expenditures for this change in position. Commissioner Malkoon noted that he would like clarification of whether or not this new position would affect any grant funding

provided to the Town for the operation of the Community Center, as well as an overview of the budget associated with this position. He was in favor of considering creation of the new position.

It was decided that this Item would be brought back at the April 28, 2020 meeting with a list of proposed expenditures, as well as clarification of Commissioner Malkoon's concern regarding grant funding.

13.f Town Commission Discussion on 4th of July Event (Bill Vance, Town Manager)

Town Manager Vance recommended that this discussion be carried forward to the first meeting in May 2020, as conditions are too uncertain at present to make a firm decision on future public activities. Special Projects Coordinator Hime continues to work with the Town's regular July 4 event contractors, whose cancellation policy allows the Town to make a final decision 45 days in advance of the holiday, which would set a deadline of May 19. The discussion of future events will also include consideration of Bugfest-By-The-Sea.

14. COMMISSIONER COMMENTS

Commissioner Oldaker thanked Mayor Vincent for providing a strong voice for the Town during the current COVID-19 emergency, and recognized Town residents and businesses for their adherence to social distancing guidelines.

Commissioner Strauss strongly encouraged all residents to participate in the 2020 U.S. Census. He also recommended that those who can donate blood do so, and urged residents to support local restaurant business if possible.

Vice Mayor Sokolow also recognized Mayor Vincent's leadership in dealing with the current crisis.

Mayor Vincent thanked Town Staff for their support in helping him make decisions about the Town's welfare during the emergency. He emphasized that conditions are constantly changing as the world learns more about the COVID-19 virus, including significant changes in the number of cases in Broward County just in the past week.

15. ORDINANCES 1ST READING

None.

16. ORDINANCES 2ND READING

16.a Ordinance 2020-04 – AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 30, UNIFIED LAND DEVELOPMENT REGULATIONS, ARTICLE VIII, SIGN REGULATIONS, TO AMEND REGULATIONS AND PROHIBITIONS APPLICABLE TO SIGNAGE, REVISE SIGN REQUIREMENTS AND STANDARDS, SIGN REGULATIONS BY SIGN TYPE AND BY ZONING DISTRICT; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE (Linda Connors, Development Services Director)

At this time Mayor Vincent opened public comment, which he closed upon receiving no input.

Commissioner Oldaker made a motion, seconded by Vice Mayor Sokolow, to approve. Motion carried 5-0.

17. RESOLUTIONS – PUBLIC COMMENTS

17.a Resolution 2020-13 – A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, PROVIDING FOR THE APPOINTMENT OF _____ AS VICE-MAYOR; PROVIDING FOR CONFLICT; PROVIDING FOR AN EFFECTIVE DATE (Tedra Allen, Town Clerk)

At this time Mayor Vincent opened public comment, which he closed upon receiving no input.

Mayor Vincent noted that the Vice Mayor is not permitted to serve two consecutive terms. He thanked Vice Mayor Sokolow for his service to the community over the past two years. Vice Mayor Sokolow recommended that Commissioner Oldaker be appointed to this position, as he is the next most senior member of the Commission.

Vice Mayor Sokolow made a motion, seconded by Commissioner Malkoon, to appoint Commissioner Oldaker as Vice Mayor. Motion carried 5-0.

At this time Commissioner Oldaker assumed the role of Vice Mayor.

17.b Resolution 2020-16 – A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, RATIFYING AND APPROVING ALL EMERGENCY ORDERS AND ACTIONS TAKEN BY THE MAYOR CONCERNING OR RELATED TO THE COVID-19 EMERGENCY; AUTHORIZING THE MAYOR TO DO ALL THINGS NECESSARY TO CARRY OUT THE AIMS OF THIS RESOLUTION; PROVIDING FOR REPEAL OF ANY CONFLICTING RESOLUTION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

At this time Mayor Vincent opened public comment, which he closed upon receiving no input.

Commissioner Sokolow made a motion, seconded by Vice Mayor Oldaker, to approve. Motion carried 5-0.

17.c Resolution 2020-17 – A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, PROVIDING FOR THE APPOINTMENT OF PLANNING AND ZONING BOARD MEMBERS; PROVIDING FOR CONFLICT; PROVIDING FOR AN EFFECTIVE DATE (Tedra Allen, Town Clerk)

At this time Mayor Vincent opened public comment, which he closed upon receiving no input.

The following individuals were named to the Planning and Zoning Board and its alternate membership:

- Ron Piersante
- David Chanon
- Wayne Dillistin
- Christina Buerosse
- Jeffry Whyte
- Alan Bluestein: First Alternate
- Patricia Omana: Second Alternate

It was noted that the individuals appointed to the Planning and Zoning Board will also serve as appointees to the Board of Adjustment, although members of the two advisory bodies will be voted upon under separate Resolutions.

Commissioner Sokolow made a motion, seconded by Commissioner Malkoon, to appoint the above individuals as members and alternates of the Planning and Zoning Board. Motion carried 5-0.

Vice Mayor Oldaker noted that alternates may attend all Board meetings, although they are not permitted to vote if the full regular membership is present.

17.d Resolution 2020-18 – A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, PROVIDING FOR THE APPOINTMENT OF BOARD OF ADJUSTMENT MEMBERS; PROVIDING FOR CONFLICT; PROVIDING FOR AN EFFECTIVE DATE (Tedra Allen, Town Clerk)

At this time Mayor Vincent opened public comment, which he closed upon receiving no input.

The following individuals were named to the Board of Adjustment:

- Ron Piersante
- David Chanon
- Wayne Dillistin
- Christina Buerosse
- Jeffry Whyte
- Alan Bluestein: First Alternate
- Patricia Omana: Second Alternate

Vice Mayor Oldaker made a motion, seconded by Commissioner Strauss, to appoint the same slate of members and alternates to the Board of Adjustment. Motion carried 5-0.

18. QUASI JUDICIAL PUBLIC HEARINGS

With no other business to come before the Commission at this time, the meeting was adjourned at 7:21 p.m.

Mayor Chris Vincent

Lauderdale-By-The-Sea
Virtual Town Commission Meeting
April 14, 2020

ATTEST:

Town Clerk Tedra Allen

Date



Town Commission Agenda Item Report

Meeting Date: May 12, 2020

Submitted by: Bill Vance, Town Manager

Submitting Department: Administration

Item Type: Discussion

Agenda Section: OLD BUSINESS

Subject Title: Town Commission Discussion on 4th of July event

Explanation:

Due to the current COVID-19 crisis, staff is seeking Town Commission direction on the realization of the 4th of July event.

Recommendation:

Town Manager Bill Vance recommends cancellation of the event.



Town Commission Agenda Item Report

Meeting Date: May 12, 2020

Submitted by: Linda Connors

Submitting Department: Development Services

Item Type: Discussion Item

Agenda Section: Old Business

Subject Title: El Mar Drive Project – Public Participation Meeting #2

Explanation: At your April 28, 2020 meeting, the EDSA team presented the preliminary survey results for the El Mar Design project. The team has since reviewed all of the 900 comments received and compiled them into a final document (**Exhibit 1**). This document was posted on the project website www.LBTSElMar.com and we will be sending an email to those residents that signed up for project updates through the project website.

Over the past two weeks, the El Mar Team has utilized the information gathered from the survey and developed a second survey for the public. This survey will be the topic of tonight's presentation. It will be posted on the website on May 13th with the deadline for completion being May 27th. We will send emails to the same groups – Chamber, Condominiums, Neighborhood Associations, Nextdoor, etc. that we contacted initially. We also have over 450 people that have signed up for notices on the El Mar Design Website and we will be able to reach them directly requesting that they participate in Survey #2.

While the design team has been analyzing the survey results, Baxter and Woodman, the project's Engineer, has been moving forward with the surveying component of the project. The field work has been completed and their team is setting up the design base drawings. This aspect of the project is slightly ahead of schedule as the final survey's contract deadline is May 25, 2020. Work to secure the subconsultant for the geotechnical work is underway. Proposed locations for the borings have been determined and the team is working to complete the permit applications necessary to conduct the work. Finally, the survey drawings were sent to the utility companies so that we could include utility information on the base drawings. Several utilities have already responded however we are still waiting for FP&L, TECO Gas, AT&T and the City of Fort Lauderdale (potable water).

Recommendation: Staff recommends that the Commission authorize the consultants to move forward with Survey #2.

Attachments:

1. Survey #1 Results

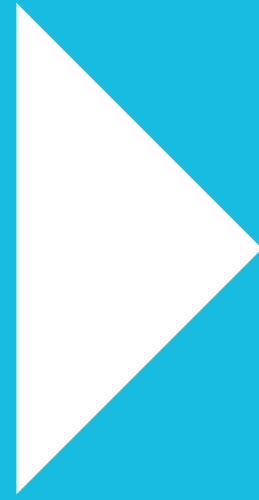


TOWN OF LAUDERDALE • BY • THE • SEA EL MAR DESIGN

SURVEY DATA REPORT: SUMMARY & ANALYSIS

MAY 2020

The results are in!



Over 630 local residents, business owners, hoteliers, and other stakeholders responded to the El Mar Design Survey shown on the next page.

Offered online and via hard copy, the survey was designed to encourage public feedback that can help to shape the design team's strategy for enhancing the El Mar Drive corridor.

Such an outstanding level of response is a testament to the importance of El Mar Drive to the local community. We understand the Town's appreciation for this street. Our plan is to preserve what you love, but improve upon the concerns presented in the survey data.

We have thoroughly studied the survey's quantifiable results, responses to open-ended questions, and general comments to create this **report that summarizes our overall analysis and conclusions.** All of this information will be thoughtfully considered and incorporated as we develop our next steps for moving forward. Thank you for all of your feedback.

Let's keep the conversation going!



1. WHAT DO YOU LIKE MOST ABOUT EL MAR DRIVE?

2. WHAT DO YOU DISLIKE ABOUT EL MAR DRIVE?

3. WHAT ARE THE TOP 3 IMPROVEMENTS YOU WOULD LIKE TO SEE ON EL MAR DRIVE?

1. _____
2. _____
3. _____

4. ARE YOU INTERESTED IN INCORPORATING SIGNAGE RELATED TO FITNESS (SUCH AS MILE MARKERS) AND / OR SUSTAINABILITY?

5. WHAT IS YOUR PRIMARY ACTIVITY ON EL MAR DRIVE?

- ☐ DRIVING CAR TO RESIDENCE / HOME (NO OTHER USE)
- ☐ WALKING / RUNNING
- ☐ BIKING / ROLLER BLADING
- ☐ DOG WALKING
- ☐ PEOPLE WATCHING
- ☐ OTHER _____

6. IN YOUR OPINION, ARE TWO VEHICULAR TRAVEL LANES IN EACH DIRECTION NECESSARY ALONG EL MAR DRIVE, OR WOULD ONE LANE SUFFICE?

PLEASE MARK THE ITEMS BELOW THAT ARE MOST IMPORTANT TO YOU:

- | | |
|---|--|
| ☐ WIDER SIDEWALKS | ☐ SAFER PEDESTRIAN CROSSINGS |
| ☐ IMPROVED BIKE CIRCULATION | ☐ SUSTAINABILITY |
| ☐ LANDSCAPE ENHANCEMENTS | ☐ DESIGNATED DOG RELIEF AREAS |
| ☐ IMPROVED LIGHTING | ☐ ADDITIONAL SITE FURNITURE |
| ☐ PLAN FOR UNDERGROUND UTILITIES | ☐ DESIGN FOR 24 / 7 USE; |
| ☐ DRAINAGE IMPROVEMENTS | SERVICE TRUCKS, MORNING |
| | WALKS, SPECIAL EVENT PARKING |

question



WHAT DO YOU LIKE MOST ABOUT EL MAR DRIVE?

This was an open-ended response question, so results could not be quantified. We determined the most frequently-recurring responses, then divided them into the three general categories below.

TOP 3 RESPONSE CATEGORIES



ATTRACTIVE

- Ocean views
- Nice green spaces and landscaping / trees (especially within the median)
- Clean and well maintained
- Quaint boutique hotels
- Peaceful drive along ocean



WALKABLE

- Dog-friendly / good street for dog-walking
- Good length for fitness walking and jogging
- Less traffic than A1A
- Close proximity to Commercial Boulevard restaurants / nightlife and beach



SMALL-TOWN VIBE AND SEASIDE VILLAGE CHARACTER

- Quiet; feels calm and relaxing
- Friendliness; people greet each other as they pass
- Quaint, low-key, beach vibe
- Comfortable, pedestrian- scale buildings

ANALYSIS

Many people enjoy El Mar as-is. You describe it as “beautiful,” “charming,” “quaint,” “walkable,” and “calm.” You also mention its “small-town” character and “seaside-village” vibe. You appreciate its ocean views, green spaces, and median with planted trees; you also enjoy walking and biking. The design team understands that all of these characteristics must be preserved; they create El Mar’s unique sense of place, are valued by this community, and will remain in-tact.

question 2

WHAT DO YOU **DISLIKE** ABOUT EL MAR DRIVE?

This was an open-ended response question, so results could not be quantified. We determined the most frequently-recurring responses, then divided them into the three general categories below.

TOP 3 RESPONSE CATEGORIES



SIDEWALKS

- Sidewalks are too narrow and cluttered with utility poles; people walk in street
- Sidewalks are uneven, broken, and are adjacent to parking
- Need for increased shade / planting along walkways
- Need for pet relief options
- Inconsistent sidewalk materials



ROADWAY, CIRCULATION, AND TRAFFIC

- Vehicular speeding
- Traffic and congestion, especially during peak tourist season
- Vehicular traffic is prioritized
- Service and delivery trucks can be loud / circulation can be cumbersome
- No designated bike circulation
- Road surface and drainage needs improvement



SAFETY

- Need for improved lighting – very dark at night
- Vagrants / surveillance concerns
- Blighted property at the south end (former Holiday Inn)

ANALYSIS

The categories above generalize the three most recurring complaints in the survey results. Sidewalk issues, speeding, and lighting are most frequent. Our design efforts will focus on creating a safer pedestrian environment with optimal lighting, as well as improving vehicular circulation.

question



WHAT ARE THE TOP THREE IMPROVEMENTS YOU WOULD LIKE TO SEE ON EL MAR DRIVE?

This was an open-ended response question, so results could not be quantified. We determined the most frequently-recurring responses, then divided them into the three general categories below.

TOP 3 RESPONSE CATEGORIES



IMPROVED SIDEWALKS

- Widen sidewalks
- Implement consistent materials
- Bury utilities to reduce clutter
- Improve drainage



IMPROVED CIRCULATION

- Improve bike circulation
- Define circulation for vehicles, bikes, and pedestrians
- Consider reducing vehicular traffic to one lane
- Consider golf cart parking
- Calm traffic



MORE LIGHTING AND LANDSCAPING

- Add lighting to enhance nighttime safety and comfort
- Add trees and shrubs for aesthetics and for shade
- Incorporate pet relief into the landscape

ANALYSIS

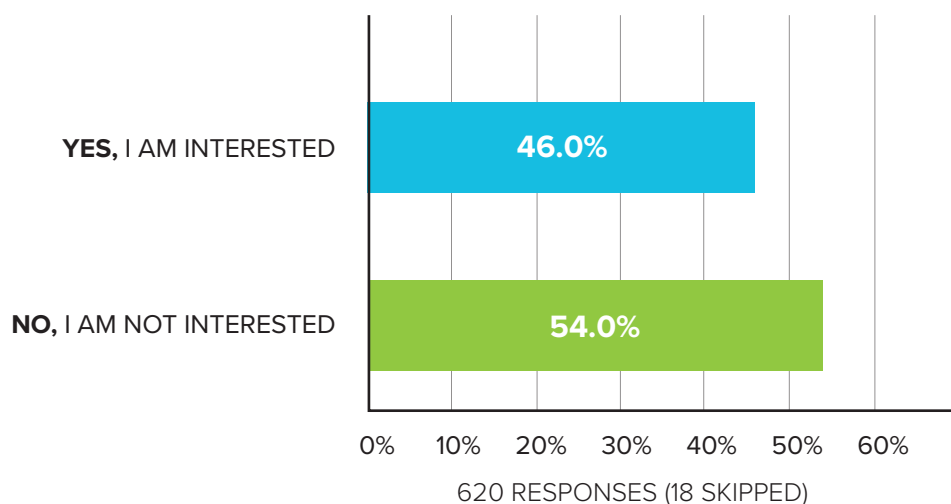
Better sidewalks are key to this project. This request, along with improved lighting, are the two most frequently proposed improvements. Additional trees and landscape, along with underground utilities, are also highly-recurring requests. Although the project budget might not allow for underground utilities right now, we can plan for the future by installing underground conduit. Many people are also interested in the incorporation of a bike lane, as well as reducing vehicular traffic to a single lane in each direction. These right-of-way changes will be studied to determine a configuration that works best to meets everyone's needs.

question 4

ARE YOU INTERESTED IN INCORPORATING **SIGNAGE RELATED TO FITNESS** (SUCH AS MILE MARKERS) **AND/OR SUSTAINABILITY?**

This was a multiple-choice question with quantifiable results presented below.

QUANTIFIED RESULTS



ANALYSIS

Incorporating signage related to fitness and / or sustainability is almost an even 50-50 split. In the general comments, some respondents note that they are unclear on the term “sustainability.” This term refers to design efforts and standards that promote environmental stewardship and responsible stormwater management, such as rain gardens, planted swales, native planting, and permeable pavement. In our next round of public outreach, we can define in more detail how fitness and sustainability-related program components and signage could be incorporated into the El Mar streetscape. From there, we can determine if there is enough interest within the community to make these elements worthwhile. We understand that visual clutter is a concern along El Mar, so any proposed signage elements should be minimal.

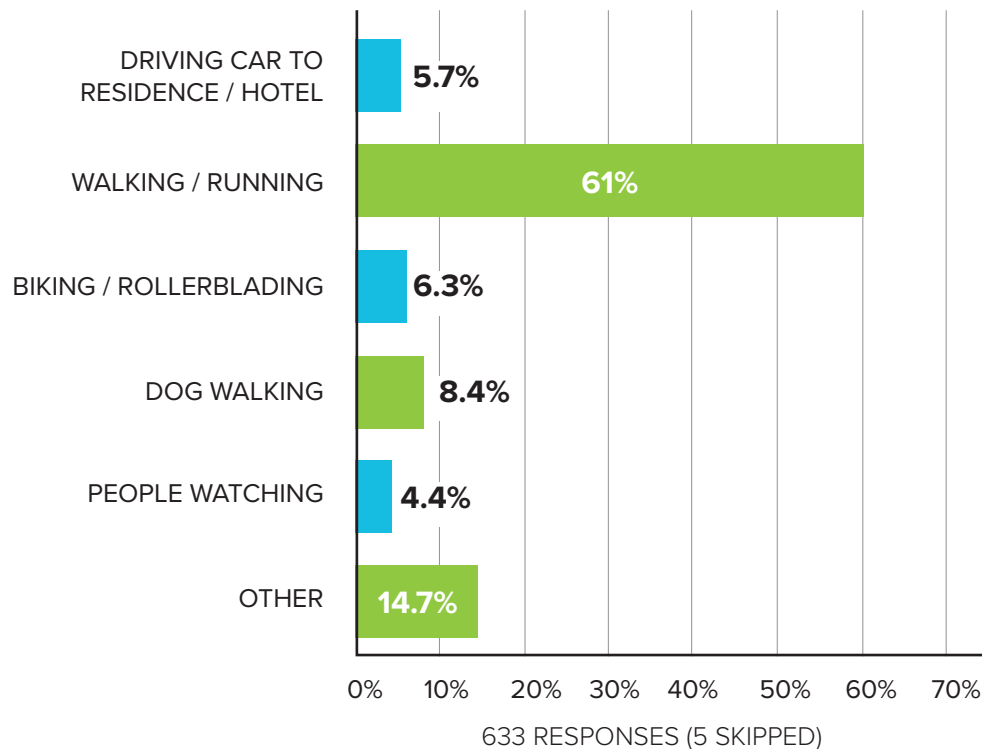
question



WHAT IS YOUR **PRIMARY** ACTIVITY ON EL MAR DRIVE?

This was a multiple-choice question with quantifiable results presented below.

QUANTIFIED RESULTS



ANALYSIS

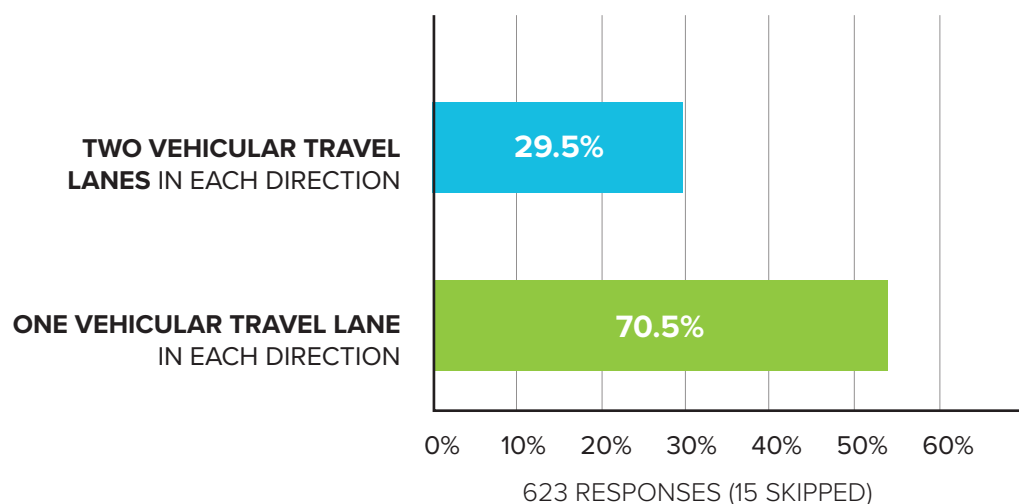
Walking and running won by a landslide! Clearly, El Mar is a widely-used pedestrian corridor. The street's walkability was also noted frequently in general comments and in Question #1. However, issues with the current sidewalks were the most frequent complaint mentioned in Question #2, as well as in the general comments. This means that improving the pedestrian environment – enhancing safety, beautifying the landscape, and achieving comfortable right-of-way proportions – is critical to the success of this project. We will continue to look for feedback from the community as we develop the right-of-way design in more detail to ensure that El Mar's redesign makes the community's favorite activities on this street – running and walking – even better.



IN YOUR OPINION, ARE TWO VEHICULAR TRAVEL LANES IN EACH DIRECTION NECESSARY ALONG EL MAR DRIVE, OR WOULD ONE LANE SUFFICE?

This was a multiple-choice question with quantifiable results presented below.

QUANTIFIED RESULTS



ANALYSIS

This statistic means that there is adequate interest from the community to study the possibility of reducing traffic to one lane in each direction along portions of El Mar Drive. However, it does not mean that we are immediately changing the entire right-of-way to one-lane only on each side! We understand that the design solutions we propose must work for everyone involved. Service vehicles, delivery trucks, parallel parking, and other factors must all be accommodated. Concerns with changes to the current circulation pattern were also noted in some respondents' general comments. This question was a conversation starter to determine if modifying the circulation along portions of El Mar might be possible. We will study the right-of-way in more detail to explore options that could be considered, then look for additional feedback from the community on the configuration that best meets everyone's needs.

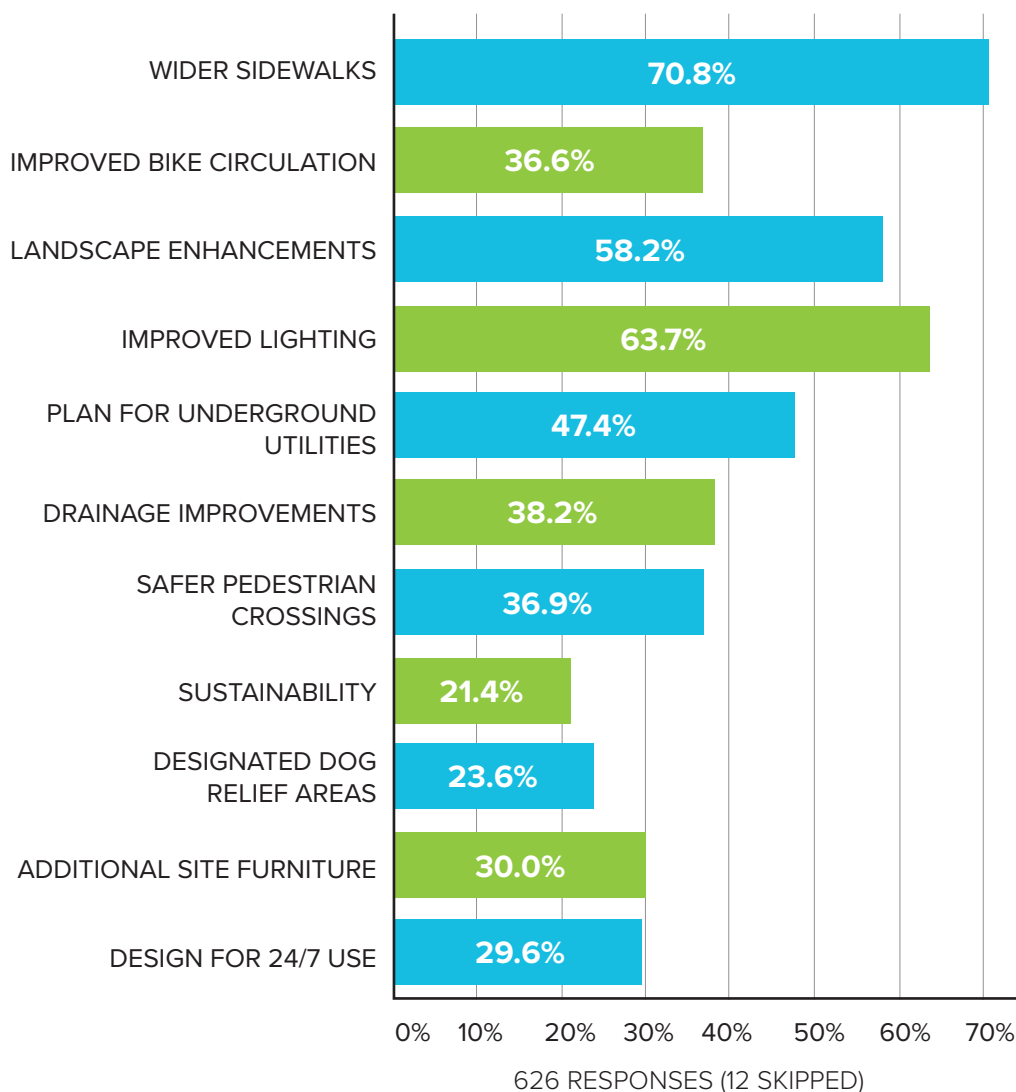
question



PLEASE MARK THE ITEMS THAT
ARE **MOST IMPORTANT** TO YOU.

This was a multiple-choice question with quantifiable results presented below.

QUANTIFIED RESULTS



ANALYSIS

Based on these statistics, wider sidewalks, improved lighting, and landscape enhancements will be our “big three” areas of focus. These results align with the results of Question #5, which established walking and running as the primary activities along El Mar Drive. Enhancing the pedestrian environment will be paramount to this project.

Planning for underground utilities came in fourth at 47%, with bike circulation, improved drainage, and safer pedestrian crossings all finishing in the 35-38% range. These four categories will also be considered as the design develops, although sidewalks, lighting, and landscape will take priority.

Furnishings, dog relief, 24/7 use, and sustainability finished at the bottom, so these will not be primary areas of focus. However, we understand that these are still important considerations (particularly sustainability) to complete this project responsibly, so they will be integrated into the design strategy at a more subtle scale.

GENERAL COMMENTS

We reviewed your comments line by line – nearly **400 of them!** In order to limit our areas of focus and develop a manageable list of objectives, we created **five categories** of the most critical elements to be addressed based on the comments that occurred most frequently. These are **issues not already identified in questions 1 through 7** and are outlined below.

KEEP IT SIMPLE

Comments like “Don’t mess with success” tell us how much you enjoy this street the way it is. We know that its small-town charm and beach-side vibe need to be preserved – and they will be. Many respondents are advocating a less-is-more approach to this project’s design elements, and we could not agree more. Further public outreach efforts will allow the community to provide more feedback on design strategy.

DELIVERY TRUCKS

Some respondents commented on delivery / service truck circulation and parking. The design team understands that service vehicles need to be accommodated, but disruptions to other vehicular and pedestrian circulation should be minimized (and avoided if possible).

FURNISHINGS

Some people would like to see more benches along El Mar and also asked us to consider fitness stops. Furnishings will likely be incorporated into the streetscape, and we can work with the community to determine the appropriate style. We understand that sidewalks need to be uncluttered; any furnishings and other proposed elements will take this into consideration.

SIGNAGE

Respondents asked us to keep signage minimal and simple. We agree completely. We realize the importance of avoiding clutter in the pedestrian realm, particularly on this street where sidewalks are currently constrained.

EXISTING TREE PRESERVATION

Several respondents expressed concerns with removing existing landscape. The design team will complete a thorough inventory of El Mar’s existing trees to determine trees and palms suitable for preservation. We will keep as much of the existing canopy in-tact as possible. We will ensure that the proposed design beautifies the street, increases shade, and promotes environmental sustainability.

CONCLUSIONS & NEXT STEPS

Below is a summary of our main takeaways from this compilation of data and comments. These conclusions will inform our strategy for improving El Mar Drive and will help to shape the questions presented in our next round of public outreach.



- **Many people love this street as-is.** Improvements should be simple from an aesthetic standpoint and function-based. El Mar's beach vibe and small-town charm must be preserved.
- **Walking and jogging are the primary activities along El Mar, but the current sidewalk conditions are the number one complaint.** We need to establish right-of-way proportions that are accommodating, comfortable, and make this feel like a pedestrian-oriented corridor. Sidewalks need to be wider, consistently designed, and safe.
- **Landscaping should be enhanced.** Many people like the median (especially the tree planting) and have requested additional landscape.
- **Speeding is a concern.** In our next round of public outreach, we can propose options for traffic calming measures (such as pedestrian bump-outs and textured intersection pavement) to determine the solutions the community prefers most.
- We need to ensure that **ocean views** are preserved or enhanced.
- **Better lighting is a must** so that people can safely and comfortably navigate the street at night.
- **The Town is in the process of installing security cameras** in the El Mar Drive area and expects the project to be complete by the end of summer 2020. Cameras are already installed on Commercial between A1A and the Pavilion, as well as El Prado Park. We will work with the Town to determine if and where additional surveillance might be necessary.
- We understand that **blighted properties** can be an eyesore. The design team will work with the Town to enhance the corridor.
- **Planning for future underground utilities** should be incorporated.

Let's keep the ball rolling!



**Thank you for taking the time
to provide your feedback.**

Our main goal for the El Mar Drive corridor is to **preserve the street that so many of you enjoy already**, but **improve the issues related to safety, functionality, and aesthetics** identified in this report. We hope that you will continue to be involved to help us design a street tailored specifically to this community.

Let's keep in touch!



Town Commission Agenda Item Report

Meeting Date: May 12, 2020

Submitted by: Bill Vance, Town Manager

Submitting Department: Administration

Item Type: Discussion Item

Agenda Section: New Business

Subject Title: Town Manager Closing Code Lien Update

Explanation:

Discussion of ongoing liens.

Recommendation: N/A

Attachments:

1. Code Cases Inventory as of May 4th, 2020

Code Cases as of 5/4/2020

	Status Key	Number of Cases	Closed / Open	Total Amount of Fines
1	Lien	76	60/16	10,321,556
2	Fines--Not Recorded	2	1/1	15,225
3	Magistrate Jurisdiction	71	2/69	48,960
4	Pre-Magistrate	47	0/47	0
5	Complied; Admin Fee	11	11/0	900

Status	Property Address	# of Cases on Associated with Property	Date Created	Case #	Incident Type	Violation	Balance Total
1	1501 S OCEAN Blvd	1	7/28/2015	15120011	Building Code Violations	Closed	\$750
1	1800 S OCEAN Blvd	2	Various dates	Various	Various Violations	Open and Closed Cases	\$135,000
1	1900 S OCEAN Blvd	1	1/5/2016	16010001	Building Code Violations	Closed	\$41,800
1	1931 WATERS EDGE	6	Various	Various	Various	Open and Closed Cases	\$177,550
1	1961 TROPIC ISLE	3	6/30/2009	Various	Permits Required Violations	Closed	\$182,250
1	1961 WINDWARD DR	1	5/19/2017	17080030	Property Maintenance	Closed	\$150
1	2000 S OCEAN BLVD	1	1/17/2018	18010014	Building Code Violations	Open	\$74,500
1	2031 COCO PALM PL	10	Various	Various	Various	Closed	\$43,923
1	226 BASIN Dr	1	6/11/2015	15060015	Property Maintenance	Closed	\$369,500
1	233 CORSAIR AVE	1	7/30/2017	17070033	Vacation Rental	Closed	\$150
1	245 CORSAIR Ave	1	5/6/2015	15060019	Building Code Violations	Closed	\$10,025
1	262 CORSAIR AVE	1	6/11/2019	19060005	Permits Required Violations	Open	\$10,250
1	4108 EL MAR Dr	5	Various	Various	Various	Closed	\$2,319,631
1	4110 EL MAR Dr	4	Various	Various	Various	Closed	\$2,383,280
1	4116 N OCEAN Dr	3	Various	Various	Various	Open and Closed Cases	\$2,434,072
1	4132 N OCEAN Dr	4	Various	Various	Various	Closed	\$99,325
1	4133 EL MAR Dr	1	5/5/2014	15030007	Business Tax	Closed	\$48,825
1	4136 N OCEAN Dr	1	5/5/2014	15030008	Business Tax	Closed	\$52,125
1	4140 EL MAR Dr	1	9/3/2016	16090006	Building Code Violations	Closed	\$550
1	4326 N OCEAN DR	7	Various	Various	Various	Open and Closed Cases	\$457,050
1	4423 W TRADEWINDS Ave	3	Various	Various	Various	Closed	\$6,350
1	4505 POINCIANA ST	1	6/3/2010	18040017	Property Maintenance	Closed	\$150
1	4521 N OCEAN DR	6	Various	Various	Various	Open and Closed Cases	\$1,554,800
1	4548 POINCIANA ST	1	6/20/2018	18060013	Vacation Rental	Open	\$24,120
1	4600 N OCEAN Dr	1	7/28/2015	15070023	Building Code Violations	Closed	\$26,350
1	4601 EL MAR DR	2	Various	Various	Various	Closed	\$68,800
1	4608 N OCEAN Dr	1	7/28/2015	15070024	Building Code Violations	Closed	\$25,900
1	4617 EL MAR Dr	1	9/22/2014	14110003	Permits Required Violations	Open	\$165,050

Status	Property Address	# of Cases on Associated with Property	Date Created	Case #	Incident Type	Violation	Balance Total
1	4629 POINCIANA ST	1	5/16/2017	17060007	Permits Required Violations	Closed	\$100
1	4648 BOUGAINVILLA Dr	2	Various	Various	Various	Open and Closed Cases	\$416,975
1	5000 N OCEAN BLVD	1	11/5/2015	15110003	Building Code Violations	Open	\$312,650
1	4326 N OCEAN DR	1	8/14/2019	19080001	Nuisance	Closed	\$700
2	4329 EL MAR DR	1	3/20/2018	18030025	Property Maintenance	Open	\$13,425
2	4353 N OCEAN Dr	1	1/31/2014	14020020	Business Tax	Closed	\$1,800
3	1439 S OCEAN BLVD	50	Varios	Various	Various	Open	\$48,960
3	1724 BEL-AIR AVE	1	9/18/2019	19110002	Property Maintenance	Closed	\$8,100
3	1931 WATERS EDGE	1	4/18/2019	19040010	Permits Required Violations	Open	\$1,200
3	2 E COMMERCIAL BLVD	1	2/22/2018	18020015	Property Maintenance	Open	\$9,850
3	2030 CORAL REEF DR	1	4/13/2020	20040002	Permits Required Violations	Open	\$0
3	230 LAKE CT	1	3/14/2018	18070009	Business Tax	Open	\$0
3	267 CAPRI AVE	1	4/12/2019	19040009	Zoning Violations	Open	\$4,900
3	3211 S TERRA MAR DR	1	4/4/2019	19040014	Permits Required Violations	Open	\$1,100
3	3250 SEAWARD DR	1	11/5/2019	20030004	Permits Required Violations	Open	\$0
3	3900 N OCEAN DR	1	5/8/2019	19050007	Building Code Violations	Open	\$4,050
3	4051 N OCEAN DR	1	2/19/2020	20020006	BTR Inspection/Commercial	Open	\$0
3	4105 N OCEAN DR	1	3/4/2020	20030002	BTR Housing Inspection	Open	\$0
3	4109 N OCEAN DR	1	3/4/2020	20030001	BTR Housing Inspection	Open	\$0
3	4243 BOUGAINVILLA DR	1	11/9/2019	19110001	Building Code Violations	Open	\$0
3	4245 N OCEAN DR	1	2/1/2020	20020005	Minimum Standards for dwellings	Open	\$0
3	4422 SEAGRAPE DR	1	12/10/2018	18120007	Permits Required Violations	Closed	\$16,200
3	4430 SEAGRAPE DR	1	10/15/2019	20020007	Vacation Rental	Open	\$0
3	4552 POINCIANA ST	1	8/10/2019	19080002	Permits Required Violations	Open	\$6,050
3	4601 EL MAR DR	1	3/13/2020	20030005	Permits Required Violations	Open	\$0
3	4625 N OCEAN DR	1	3/7/2019	19030002	Zoning Violations	Open	\$100
3	4648 POINCIANA ST	1	8/10/2019	19080004	Permits Required Violations	Open	\$6,050
3	6000 N OCEAN BLVD	1	4/13/2020	20040001	Permits Required Violations	Open	\$0

Status	Property Address	# of Cases on Associated with Property	Date Created	Case #	Incident Type	Violation	Balance Total
4	106 E COMMERCIAL BLVD	1	3/24/2020	42910	Sign Violations	Open	\$0
4	112 E COMMERCIAL BLVD	1	3/23/2020	42909	Sign Violations	Open	\$0
4	14 E COMMERCIAL BLVD	1	3/23/2020	42906	Sign Violations	Open	\$0
4	1439 S OCEAN BLVD	1	9/27/2019	41358	Permits Required Violations	Open	\$0
4	1925 SAILFISH PL	1	1/29/2020	42811	Parking or Storage of Trailers	Open	\$0
4	2030 CORAL REEF DR	1	1/31/2020	42835	Landscape Violations	Open	\$0
4	207 COMMERCIAL BLVD	2	3/23/2020	Various	Sign Violations	Open	\$0
4	217 E COMMERCIAL BLVD	2	8/21/2018	Various	Various	Open	\$0
4	218 E COMMERCIAL BLVD	2	7/7/2018	Various	Various	Open	\$0
4	222 E COMMERCIAL BLVD	1	3/20/2020	42904	Sign Violations	Open	\$0
4	227 E COMMERCIAL BLVD	1	3/19/2020	42901	Sign Violations	Open	\$0
4	229 E COMMERCIAL BLVD	1	3/5/2020	42862	Citizen Complaints	Open	\$0
4	230 LAKE CT	1	12/4/2019	42705	Zoning Violations	Open	\$0
4	235 E COMMERCIAL BLVD	1	3/19/2020	42898	Sign Violations	Open	\$0
4	238 COMMERCIAL BLVD	1	3/19/2020	42900	Sign Violations	Open	\$0
4	251 ALGIERS AVE	1	9/27/2019	41332	Landscape Violations	Open	\$0
4	253 E COMMERCIAL BLVD	2	3/19/2020	Various	Sign Violations	Open	\$0
4	259 COMMERCIAL BLVD	2	3/17/2020	Various	Sign Violations	Open	\$0
4	259 HIBISCUS AVE	1	12/23/2019	42723	BTR Housing Inspection	Open	\$0
4	263 COMMERCIAL BLVD	1	3/17/2020	42880	Sign Violations	Open	\$0
4	267 OCEANIC AVE	1	6/5/2019	40802	Web Citizen Complaint	Open	\$0
4	268 NEPTUNE AVE	1	4/13/2019	40053	Nuisance	Open	\$0
4	272 ALLENWOOD DR	1	9/11/2019	41312	Property Maintenance	Open	\$0
4	3220 S TERRA MAR DR	1	8/3/2019	40967	Building Code Violations	Open	\$0
4	3900 N OCEAN DR	1	3/19/2020	42890	Building Code Violations	Open	\$0
4	4108 EL MAR DR	1	6/1/2019	40495	Nuisance	Open	\$0
4	4209 EL MAR DR	1	9/21/2018	38573	Zoning Violations	Open	\$0
4	4220 SEAGRAPE DR	1	8/10/2019	40976	Business Tax	Open	\$0

Status	Property Address	# of Cases on Associated with Property	Date Created	Case #	Incident Type	Violation	Balance Total
4	4315 W TRADEWINDS AVE	1	3/12/2020	42872	Building Code Violations	Open	\$0
4	4525 POINCIANA ST	1	4/6/2019	39998	No Garbage/Trash Service	Open	\$0
4	4552 POINCIANA ST	1	5/1/2018	40509	Zoning Violations	Open	\$0
4	4565 POINCIANA ST	1	2/6/2020	42817	Nuisance	Open	\$0
4	4648 POINCIANA ST	1	4/25/2018	40510	Zoning Violations	Open	\$0
4	4652 POINCIANA ST	8	8/1/2018	Various	Property Maintenance	Open	\$0
4	5400 N OCEAN BLVD	1	9/18/2019	41544	Property Maintenance	Open	\$0
5	2011 CORAL REEF DR	1	6/14/2018	18060006	Nuisance/Abandoned Homes	Closed	\$50
5	2036 COCO PALM PL	1	4/7/2017	18080010	Landscape Violations	Closed	\$50
5	2072 OCEAN MIST DR	1	4/7/2017	17060003	Landscape Violations	Closed	\$150
5	217 E COMMERCIAL BLVD	1	11/20/2018	18110014	Building Code Violations	Closed	\$100
5	240 IMPERIAL LN	1	8/4/2018	18080004	Vacation Rental	Closed	\$100
5	251 ALGIERS AVE	1	9/21/2018	19020021	Vision Hazards	Closed	\$50
5	262 CORSAIR AVE	1	8/22/2019	19090003	Nuisance	Closed	\$100
5	4108 EL MAR DR	1	4/23/2019	19040015	Landscape Violations	Closed	\$100
5	4144 EL MAR DR	1	8/15/2018	18080020	Property Maintenance	Closed	\$100
5	4443 W TRADEWINDS AVE	1	6/22/2019	19090006	Zoning Violations	Closed	\$50
5	4449 W TRADEWINDS AVE	1	4/25/2019	19090007	Permits Required Violations	Closed	\$50



Town Commission Agenda Item Report

Meeting Date: May 12, 2020

Submitted By: Steve d'Oliveira/BugFest Coordinator

Submitting Department: Public Information Office

Agenda Section: New Business

Subject Title: BugFest-By-The-Sea Discussion

Explanation: BugFest 2020 During Coronavirus

Recommendation: Cancel BugFest 2020 Event

With the Town Commission considering whether to cancel its Fourth of July event, it makes sense to also consider whether the Town should hold its annual mini-season event this year (July 28-31, 2020). Even though BugFest can be categorized as a lobster hunting contest, in reality, it's also a social event for divers.

BugFest's three main events are:

- 1. Lobster Mini-Season Kickoff Party (July 28):** This event draws more than 100 people to Plunge.
- 2. Lobster Chef Competition & Contest Awards (July 30):** This event draws 200 people to Ocean Plaza.
- 3. BugFest Diveheart Concert (July 31):** This event attracts more than 500 people to Anglin's Square.

In light of the Coronavirus social distancing requirements Broward is now under - and probably will be through the summer and perhaps even longer- staff recommends cancelling BugFest 2020. It seems unconscionable to possibly endanger people's lives at an event where social distancing would be almost impossible to enforce.

Staff hopes the current situation will improve in the coming year so that BugFest 2021 can be held.



Town Commission Agenda Item Report

Meeting Date: May 12, 2020

Submitted by: Linda Connors

Submitting Department: Development Services

Item Type: Ordinance

Agenda Section: Ordinance

Subject Title: First Reading Ordinance 2020-05: An Ordinance of the Town Of Lauderdale-By-The-Sea, Florida, Amending Chapter 25, "Telecommunications" Regarding Communications Facilities in Rights-Of-Way Regulations

Explanation: In the 2017 legislative session, the Florida Legislature passed the Advanced Wireless Infrastructure Deployment Act (the "Act"), thereby creating subsection (7) to Section 337.401, Florida Statutes, which establishes a process by which wireless providers may install certain "small wireless facilities" within public rights-of-way under the jurisdiction and control of counties and municipalities. In 2019, the Florida legislature made extensive changes to the statute governing the use of public rights-of-way by providers of communications services, including the Act relating to small and micro wireless facilities enacted two years ago. Thus, in order to comply with statutory requirements, the Town must amend Chapter 25, "Telecommunications," as the provision of communications services to residents and visitors of the Town is both an important amenity and a necessity of public and private life in the Town.

Therefore, the proposed ordinance accomplishes the following:

1. Revises definitions;
2. Provides for uniform, nondiscriminatory standards to prevent overcrowding, proliferation and saturation of Town's rights-of-way, including standards related to stealth design, protection of residential properties, and equipment location and size; and
3. Provides for the encouragement of collocation of communications facilities; providing regulations for small wireless facilities.

Recommendation: Staff recommends approval of Ordinance 2020-05 on first reading and setting second reading for June 9, 2020.

Attachments: 1. Ordinance 2020-05

ORDINANCE 2020-05

AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 25, “TELECOMMUNICATIONS” REGARDING COMMUNICATIONS FACILITIES IN RIGHTS-OF-WAY REGULATIONS; PROVIDING AND AMENDING DEFINITIONS OF TERMS; PROVIDING FOR UNIFORM, NONDISCRIMINATORY STANDARDS TO PREVENT OVERCROWDING, PROLIFERATION AND SATURATION OF TOWN’S RIGHTS-OF-WAY, INCLUDING STANDARDS RELATED TO STEALTH DESIGN, PROTECTION OF RESIDENTIAL PROPERTIES, AND EQUIPMENT LOCATION AND SIZE; PROVIDING FOR THE ENCOURAGEMENT OF COLLOCATION OF COMMUNICATIONS FACILITIES; PROVIDING REGULATIONS FOR SMALL WIRELESS FACILITIES; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

WHEREAS, to promote the public health, safety, aesthetics, and general welfare, the Town of Lauderdale-By-The-Sea (the “Town”) has a substantial and significant public interest in maintaining and protecting its public rights-of-way in a non-discriminatory manner, and requiring that individuals and entities seeking permits to conduct any type of excavation, construction or other activity in the public rights-of-way do so in a safe, expeditious, and professional manner with minimal disruption to the public and other users of the rights-of-way; and

WHEREAS, the Town’s rights-of-way are essential for the travel of persons and the transport of goods throughout the Town and are a unique and physically limited resource requiring proper management by the Town in order to maximize efficiency, minimize costs to Town taxpayers, reasonably balance the potential inconvenience to and negative effects upon the public from the placement and maintenance of communications facilities in the rights-of-way against the benefits that accrue from such placement and maintenance, and promote the public health, safety and general welfare; and

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WHEREAS, Section 337.401, Florida Statutes, authorizes municipalities to adopt regulations of telecommunications facilities in the public rights-of-way that are related to the placement or maintenance of facilities in the public rights-of-way, are reasonable and non-discriminatory, and are necessary to the management of the public rights-of-way; and

WHEREAS, courts applying Florida and federal law have held that a municipality may impose reasonable design limitations on telecommunications facilities and may regulate the placement of wireless facilities where such regulation does not prohibit or effectively prohibit the provision of wireless services; and

WHEREAS, in the 2017 legislative session, the Florida Legislature passed the Advanced Wireless Infrastructure Deployment Act (the “Act”), thereby creating subsection (7) to Section 337.401, Florida Statutes, which establishes a process by which wireless providers may install certain “small wireless facilities” within public rights-of-way under the jurisdiction and control of counties and municipalities; and

WHEREAS, in 2019 the Florida legislature made extensive changes to the statute governing the use of public rights-of-way by providers of communications services, including the Act relating to small and micro wireless facilities enacted two years ago.

WHEREAS, Section 337.401(7), Florida Statutes, provides that a municipality may adopt by ordinance objective design standards that require a small wireless facility to meet reasonable location context, color, stealth, and concealment requirements and objective design standards that require a new utility pole that replaces an existing facility to be of substantially similar design, material, and color, and require reasonable spacing requirements concerning the location of ground-mounted equipment; and

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WHEREAS, it is the Town's intent to exercise its authority to adopt reasonable rules and regulations regarding communications facilities in the public rights-of-way to the fullest extent permitted by Federal and State law; and

WHEREAS, the Town Commission desires to adopt this Ordinance to amend the Town's regulations concerning communications facilities in rights-of-way within the Town.

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

SECTION 1. Recitals. The foregoing whereas clauses are incorporated herein by reference and made a part hereof.

SECTION 2. Amendment. Chapter 25 "Telecommunications," of the Town Code of Ordinances, is hereby amended as follows:

Chapter 25 - TELECOMMUNICATIONS

ARTICLE I. - IN GENERAL

Secs. 25-1—25-30. - Reserved.

ARTICLE II. - ~~COMMUNICATIONS~~ RIGHTS-OF-WAY COMMUNICATION FACILITIES

Sec. 25-31. - Title.

This article shall be known and may be cited as the Town of Lauderdale-By-The-Sea Communications Rights-of-Way Ordinance.

Sec. 25-32. - Intent and purpose.

It is the intent of the Town to promote the public health, safety and general welfare by: providing for the placement or maintenance of communications facilities in the public rights-of-way within {the} Town; adopting and administering reasonable rules and regulations not inconsistent with State and Federal law, including F.S. § 337.401, as it may be amended, {the} Town's Home-Rule Authority, and in accordance with the provisions of the Federal Telecommunications Act of 1996 and other Federal and State law; establishing reasonable rules and regulations necessary to manage the placement or maintenance of communications facilities

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in the public rights-of-way by all communications services providers, communications facilities providers, and pass-through providers; and minimizing disruption to the public rights-of-way. In regulating its public rights-of-way, the Town shall be governed by and shall comply with all applicable federal and state laws.

Sec. 25-33. - Definitions.

* * *

Antenna shall mean communications equipment that transmits or receives electromagnetic radio frequency signals used in providing wireless services.

Applicable codes shall mean uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to those codes enacted solely to address threats of destruction of property or injury to persons, or local codes or ordinances adopted to implement Section 337.401(7), Fla. Stat. The term includes objective design standards adopted by ordinance that may require a new utility pole that replaces an existing utility pole to be of substantially similar design, material, and color or that may require reasonable spacing requirements concerning the location of ground-mounted equipment. The term includes objective design standards adopted by ordinance that may require a small wireless facility to meet reasonable location context, color, stealth, and concealment requirements.

Collocate or collocation shall mean to install, mount, maintain, modify, operate, or replace one or more wireless facilities on, under, within, or adjacent to a wireless support structure or utility pole. The term does not include the installation of a new utility pole or wireless support structure in the public rights-of-way.

* * *

Communications Facilities Provider shall mean a person (other than a communications services provider) operating one or more communications facilities located within the town, who is engaged, directly or indirectly, in the business of leasing, licensing, subleasing, subletting or hiring to one or more communications service providers all or a portion of the tangible personal property used in a communications facility. A pass-through provider may be a communications facility provider.

Communications services shall mean the transmission, conveyance or routing of voice, data, audio, video, or any other information or signals, including video services, to a point, or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave, or other medium or method now in existence or hereafter devised, regardless of the protocol used for such transmission or conveyance. ~~Notwithstanding the foregoing, for purposes of this article "cable service", as defined in F.S. § 202.11(2), as it may be amended, is not~~

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~~included in the definition of "communications services" and cable service providers or providers of service via an open video system may be subject to other ordinances of the Town. The term includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether such service is referred to as voice-over-Internet-protocol services or is classified by the Federal Communications Commission as enhanced or value-added. The term does not include:~~

- (a) Information services.
- (b) Installation or maintenance of wiring or equipment on a customer's premises.
- (c) The sale or rental of tangible personal property.
- (d) The sale of advertising, including, but not limited to, directory advertising.
- (e) Bad check charges.
- (f) Late payment charges.
- (g) Billing and collection services.
- (h) Internet access service, electronic mail service, electronic bulletin board service, or similar online computer services.

Communications services provider shall mean any person providing communications services through the placement or maintenance of a communications facility in public rights-of-way. ~~"Communications services provider" shall also include any person that places or maintains a communications facility in public rights-of-way but does not provide communications services.~~

Distributed antenna system or *DAS* shall mean a network of spatially separated antenna nodes connected to a common source via a transport medium that provides wireless service within a geographic area or structure.

Existing Structure shall mean a structure within the town's public right-of-way that exists at the time an application for permission to place a communications facility on the preexisting structure is filed with the town. The term includes utility poles and any structure that:

- (i) can structurally support the attachment of a communications facility;
- (ii) can be modified or repurposed to support the attachment of a communications facility; or
- (iii) can be removed and replaced with a structure of similar design and purpose as the original existing structure that supports the attachment of a communications facility.

* * *

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Micro wireless facility shall mean a small wireless facility having dimensions no larger than 24 inches in length, 15 inches in width, and 12 inches in height and an exterior antenna, if any, no longer than 11 inches.

Pass-Through Provider shall mean any person who places or maintains a communications facility in the town's public rights-of-way and who does not remit taxes imposed by the town pursuant to chapter 202, Florida Statutes, as same may be amended from time to time.

Person shall include any individual, children, firm, association, joint venture, partnership, estate, trust, business trust, syndicate, fiduciary, corporation, organization or legal entity of any kind, successor, assignee, transferee, personal representative, and all other groups or combinations, ~~and but shall not include the Town to the extent the Town acts as a communications services provider permitted by applicable law.~~

Place or maintain or placement or maintenance or placing or maintaining shall mean to erect, construct, install, maintain, grade, excavate, place, repair, extend, replace, expand, remove, occupy, locate or relocate. A communications services provider communications facilities provider or pass-through provider that owns or exercises physical control over communications facilities in public rights-of-way, such as the physical control to maintain and repair, is "placing or maintaining" the facilities. A party providing service only through resale or only through use of a third party's unbundled network elements is not "placing or maintaining" the communications facilities through which such service is provided. The transmission and receipt of radio frequency signals through the airspace of the public rights-of-way does not constitute "placing or maintaining" facilities in the public rights-of-way.

Public rights-of-way shall mean a public right-of-way, public utility easement, public highway, street, lane, bridge, sidewalk, road, waterway, tunnel, alley, or similar property for which the Town is the authority that has jurisdiction and control and may lawfully grant access to such property pursuant to applicable law, and includes the surface, the air space over the surface and the area below the surface to the extent the Town holds a property interest therein. "Public rights-of-way" shall not include private property. "Public rights-of-way" shall not include any real or personal Town property except as described above and shall not include Town buildings, fixtures, poles, conduits, facilities or other structures or improvements, regardless of whether they are situated in the public rights-of-way. ~~No reference herein, or in any permit, to public rights-of-way shall be deemed to be a representation or guarantee by the Town that its interest or other right to control the use of such property is sufficient to permit its use for such purposes, and a registrant shall be deemed to gain only those rights to use as are properly in the Town and as the Town may have the undisputed right and power to give.~~

Registrant shall mean a communications services provider or other person that has registered with the Town in accordance with the provisions of this article.

Registration or register shall mean the process described in this article whereby a communications services provider provides certain information to the Town.

Repurposed structure shall mean an existing structure that has been renovated, reconfigured, or replaced with a similar structure so as to continue serving its primary existing purpose while

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also supporting the attachment of communications facilities through stealth design or otherwise that is approximately in the same location as the existing structure and in such a manner that does not result in a net increase in the number of structures located within the town's public rights-of-way and does not interfere with pedestrian or vehicular access, and is compliant with applicable codes. To "repurpose an existing structure" shall mean the act of renovating, reconfiguring or replacing an existing structure as described above.

Small wireless facility shall mean a wireless facility that meets the following qualifications:

- (a) Each antenna associated with the facility is located inside an enclosure of no more than 6 cubic feet in volume or, in the case of antennas that have exposed elements, each antenna and all of its exposed elements could fit within an enclosure of no more than 6 cubic feet in volume; and
- (b) All other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cutoff switches, vertical cable runs for the connection of power and other services, and utility poles or other support structures.

Stealth Design shall mean a method of camouflaging any tower, antenna or other communications facility, including, but not limited to, supporting electrical or mechanical equipment, which is designed to enhance compatibility with adjacent land uses and be as visually unobtrusive as possible. Stealth design may include a repurposed structure or a wrap.

Surrounding Neighborhood shall mean the area within a five hundred foot radius of a communications facility site or proposed communications facility site.

Town shall mean {the} Town of Lauderdale-By-The-Sea, Florida.

Town utility pole shall mean a utility pole owned by the Town and located in the right-of-way.

Utility pole shall mean a pole or similar structure that is used in whole or in part to provide communications services or for electric distribution, lighting, traffic control, signage, or a similar function. The term includes the vertical support structure for traffic lights but does not include a horizontal structure to which signal lights or other traffic control devices are attached and does not include a pole or similar structure 15 feet in height or less unless an authority grants a waiver for such pole.

Video Service shall mean a communications service as defined at section 202.11 (24), Florida statutes, as may be amended from time to time.

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Wireless facility shall mean equipment at a fixed location which enables wireless communications between user equipment and a communications network, including radio transceivers, antennas, wires, coaxial or fiber-optic cable or other cables, regular and backup power supplies, and comparable equipment, regardless of technological configuration, and equipment associated with wireless communications. The term includes small wireless facilities. The term does not include:

- (a) All The structure or improvements on, under, within, or adjacent to the structure on which the equipment is collocated;
- (b) The structure or improvements on, under, within, or adjacent to the structure on which the equipment is collocated;
- (c) Wireline backhaul facilities; or
- (d) Coaxial or fiber-optic cable that is between wireless structures or utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

Wireless services shall mean any services provided using licensed or unlicensed spectrum, whether at a fixed location or mobile, using wireless facilities.

Wireless support structure shall mean a freestanding structure, such as a monopole, a guyed or self-supporting tower, or another existing or proposed structure designed to support or capable of supporting wireless facilities. The term does not include a utility pole.

Wrap shall mean an aesthetic covering depicting scenic imagery, such as vegetation, which blends with the surrounding area.

Sec. 25-34. - Registration for placing or maintaining communications facilities in public rights-of-way.

- (a) *Registration Required.* A communications services provider, communications facilities provider or a pass-through provider that desires to place or maintain a communications facility in public rights-of-way in the Town shall first register with the Town in accordance with this article. Subject to the terms and conditions prescribed in this article, a registrant may place or maintain a communications facility in public rights-of-way upon complying with all permitting and other applicable requirements. A communications services provider, communications facilities provider or a pass-through provider with an existing communications facility in the public rights-of-way of the Town as of the effective date of this article shall comply with this article within 60 days from the effective date of this article, including, but not limited to, registration, or be in violation hereof. A registration shall not convey any title, equitable or legal, to the registrant in the public rights-of-way. Registration under this article governs only the placement or maintenance of communications facilities in public rights-of-way. Registration does not excuse a

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communications services provider, communications facilities provider or a pass-through provider from obtaining appropriate access or pole attachment agreements before locating its facilities in the Town's rights-of-way. Registration does not excuse a communications services provider from complying with all applicable Town ordinances, codes or regulations, including this article.

- (b) ~~A registration shall not convey any title, equitable or legal, to the registrant in the public rights-of-way. Registration under this article governs only the placement or maintenance of communications facilities in public rights-of-way. Registration does not excuse a communications services provider from obtaining appropriate access or pole attachment agreements before locating its facilities on the Town's or another person's facilities. Registration does not excuse a communications services provider from complying with all applicable Town ordinances, codes or regulations, including this article.~~
- (eb) Application. Each communications services provider, communications facilities provider or pass-through provider that desires to place or maintain a communications facility in public rights-of-way in the Town shall file a single registration with the Town which shall include the following information:
- (1) Name of the applicant;
 - (2) Name, address and telephone number of the applicant's primary contact person in connection with the registration and the person to contact in case of an emergency;
 - ~~(3) For registrations submitted prior to October 1, 2001, the applicant shall state whether it provides local service or toll service or both;~~
 - ~~(4) Evidence of the insurance coverage required under this article and acknowledgment that registrant has received and reviewed a copy of this article;~~
 - ~~(5) A copy of the applicant's certificate of authorization or license to provide communications services, which may be evidenced by the Florida Public Services Commission, FCC or Department of State certificate of authorization number issued by the Florida Public Service Commission, the Federal Communications Commission, or other Federal or State authority, if any;~~
 - ~~(6) For an applicant that does not provide a Florida Public Service Commission certificate of authorization number, if the applicant is a corporation, proof of authority to do business in the State of Florida, which may be satisfied by providing including the number of the corporate certificate certification of incorporation from the state; and~~
 - ~~(7) A security fund in accordance with this article.; and~~
 - (3) The number of the applicant's current certificate of authorization issued by the Florida Public Service Commission, the Federal Communications Commission, or the Department of State;
 - (4) A statement of whether the applicant is a pass-through provider;
 - (5) The applicant's federal employer identification number; and
 - (6) Evidence of the insurance coverage required under this article.

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- (dc) Processing. The Town Manager, or his designee shall review the information submitted by the applicant. If the applicant submits information in accordance with subsection (eb) above, the registration shall be effective and the Town shall notify the applicant of the effectiveness of registration in writing. If the Town determines that the information has not been submitted in accordance with subsection (eb) above, the Town shall notify the applicant of the non-effectiveness of registration, and reasons for the non-effectiveness, in writing. The Town shall so reply to an applicant within 30 days after receipt of registration information from the applicant.
- (ed) Cancellation of registration. A registrant may cancel a registration upon written notice to the Town stating that it will no longer place or maintain any communications facilities in public rights-of-way within the Town and will no longer need to obtain permits to perform work in public rights-of-way. A registrant cannot cancel a registration if the registrant continues to place or maintain any communications facilities in public rights-of-way.
- (fe) Registration shall be nonexclusive. Registration shall not in itself establish any right to place or maintain or priority for the placement or maintenance of a communications facility in public rights-of-way within the Town, but shall establish for the registrant a right to apply for a permit, if permitting is required by the Town. Registrations are expressly subject to any future amendment to or replacement of this article and further subject to any additional Town ordinances, as well as any State or Federal laws that may be enacted.
- (gf) Renewal of registration. A registrant shall renew its registration with the Town every five years. ~~by April 1 of even-numbered years in accordance with the registration requirements in this article, except that a registrant that initially registers during the even-numbered year when renewal would be due or the odd-numbered year immediately preceding such even-numbered year shall not be required to renew until the next even-numbered year. Within 390 days of any change in the information required to be submitted pursuant to subsection (cb), except, as of October 1, 2001, subsection (c)(3), a registrant shall provide updated information to the Town.~~ If no information in the then-existing registration has changed, the renewal may state that no information has changed. Failure to renew a registration may result in the Town restricting the issuance of additional permits until the communications services provider, communications facilities provider or pass-through provider has complied with the registration requirements of this article.
- (g) Registration updates. Within ninety (90) days of any change in the information required to be submitted pursuant to subsection (b), a registrant shall provide updated information to the Town.
- (h) Termination of registration.
- (1) The involuntary termination of a previously effective registration may only be accomplished by an action of the Town commission. The Town may declare the registration terminated and revoke and cancel all privileges granted under that registration if:

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- a. A federal or Florida authority suspends, denies, or revokes a registrant's certification or license to provide communications service.
- b. The registrant's placement and maintenance in the public rights-of-way presents an extraordinary danger to the general public or other users of the public rights-of-way, or
- c. The registrant abandons all of its communications facilities in the public rights-of-way.

Prior to such termination for any of the reasons set forth in this section, the Town manager shall notify the registrant in writing setting forth the matters pertinent to such reasons and describing the proposed action of the Town with respect thereto. The registrant shall have sixty (60) days after receipt of such notice within which to cure the violation, or within which to present a plan, satisfactory to the Town commission, to accomplish the same.

(2) The registrant shall be provided with written notice of the meeting at least five days prior to the meeting where the Town commission is scheduled to consider termination of the registrant's registration. At such meeting, the registrant shall be given the opportunity to address the Town commission regarding the proposed termination action prior to the Town commission's vote on termination.

(3) In the event of a vote by the Town commission to terminate the registration, the registrant shall, within a reasonable time following such termination, provide an acceptable plan for transferring ownership of the communications facilities to another person in accordance with this article or shall remove or abandon the facilities and take such steps as are necessary to render every portion of the facilities remaining in the public rights-of-way of the Town safe. If the registrant either has abandoned its facilities or chooses to abandon its facilities, the Town may either:

- a. Require the registrant or the registrant's bonding company to remove some or all of the facilities from the public rights-of-way and restore the public rights-of-way to its condition immediately prior to the removal;
- b. Require that some or all of the facilities be removed and the public rights-of-way restored to its such condition at the registrant's expense, using Town employees, agents or contractors, and charge any and all costs to the registrant and require reimbursement;
or
- c. Utilize or allow other persons to utilize the registrant's abandoned facilities.

The obligations of the registrant hereunder shall survive the termination of a registration. In the event of a declaration of termination of registration, this provision does not permit the Town to cause the removal of any facilities that are used to provide another service for which the registrant holds a valid certification or license with the governing federal or state agency, where required, and is properly registered with the Town, for such certificated service, where required.

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- (hi) Permits required of registrants. In accordance with applicable Town ordinances, codes or regulations and this article, a permit shall be required of a communications services provider, communications facilities provider or a pass-through provider that desires to place or maintain a communications facility in public rights-of-way. An effective registration shall be a condition precedent to obtaining a permit. Notwithstanding an effective registration, permitting requirements shall continue to apply. A permit may be obtained by or on behalf of a registrant having an effective registration if all permitting requirements are met.
- (i) ~~A registrant that places or maintains communications facilities in the public rights-of-way shall be required to pay compensation to the Town as required by applicable law and ordinances of the Town.~~

~~Sec. 25-35. - Transfer, sale or assignment of assets in public rights-of-way.~~

~~If a registrant transfers, sells or assigns its assets located in public rights-of-way incident to a transfer, sale or assignment of the registrant's assets, the transferee, buyer or assignee shall be obligated to comply with the terms of this article. Written notice of any such transfer, sale or assignment shall be provided by such registrant to the Town within 20 days after the effective date of the transfer, sale or assignment. If the transferee, buyer or assignee is a current registrant, then the transferee, buyer or assignee is not required to re-register. If the transferee, buyer or assignee is not a current registrant, then the transferee, buyer or assignee shall register as provided in section 25-34 within 60 days of the transfer, sale or assignment.~~

~~If permit applications are pending in the registrant's name, the transferee, buyer or assignee shall notify the Town Manager that the transferee, buyer or assignee is the new applicant.~~

~~Any encumbrance on the communications facilities of the registrant in the public rights-of-way shall be subject and subordinate to the rights of the Town under this article and applicable law.~~

Sec. 25-35. - Permit requirements and conditions for work in rights-of-way.

- (a) (1) Permit required. A registrant shall not commence to place or maintain a communications facility in a Town public right-of-way until all applicable permits have been issued by the Town. The registrant acknowledges that as a condition of granting such permits, the Town may impose reasonable conditions governing the placement or maintenance of a communications facility in the Town's public rights-of-way related to the public, health, safety and welfare as permitted and set forth in section 337.401, Florida Statutes, as may be amended from time to time; however, no such imposed conditions shall prohibit the provision of communications services. Permits shall apply only to the areas of the Town's public rights-of-way specifically identified in the permit. In determining whether to permit and reasonably limit, or impose conditions or prohibit a communications facility to be placed or located within the Town's public rights-of-way, the Town engineer shall consider the following standards and minimum requirements in the Town engineer's review and consideration of a permit application and imposition of reasonable permit conditions:

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- a. Sufficiency of space to accommodate present and pending applications for use of the Town's public rights-of-way. The sufficiency of space to accommodate all of the present and pending applications to place communications facilities and pending or planned applications to place and maintain facilities in that area of the Town's public rights-of-way;
- b. Sufficiency of space to accommodate the Town's need for projected public improvements. The sufficiency of space to accommodate Town plans for public improvements or projects adopted as part of its community investment capital improvements plan that the Town determines in the best interest of the public;
- c. Impact on traffic and traffic safety. The impact on traffic and traffic safety;
- d. Impact on existing facilities. The impact upon existing facilities in the Town's public rights-of-way;
- e. Distance separation from edge of pavement. No new communications facility pole or wireless support structure shall be constructed, operated or maintained in the Town's public rights-of-way in violation of the State of Florida Department of Transportation Manual of Uniform Minimum Standards for Streets and Highways, and the applicable table therein regarding Minimum Width of Clear Zones (the "Manual"). In accordance with the Manual, the Town engineer shall have the authority to reduce the clear zone identified in the Manual where that offset cannot be reasonably obtained and other alternatives are deemed impractical;
- f. Distance separation from sidewalk. No newly installed communications facility pole or wireless support structure shall be placed or maintained in the Town's public rights-of-way within one foot of a sidewalk or multi-purpose trail that is five feet or less in width. Collocation on an existing structure is exempt from this requirement; and
- g. Installation at outermost boundary of Town's Public Rights-of-way. Where a superior site design results from placement of a communications facility pole or wireless support structure at or near the outermost boundary of the Town's public right-of-way, the farthest distance practicable from the centerline thereof and edge of pavement is encouraged. To the extent that the location of the sidewalk or multi-purpose trail within the Town's public right-of-way precludes achievement of a superior site design or otherwise precludes compliance with all other requirements of this article, then the Town engineer or registrant may propose and the registrant may include in the permit application a proposed re-routing of the sidewalk or multi-purpose trail at its own expense, in order to achieve such superior site design or otherwise meet other requirements of this article.

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- h. Impact on drainage. No communications facility shall be installed, operated or maintained in the Town's rights-of-way in a manner that adversely impacts drainage facilities or drainage flow within the Town's rights-of-way.
- i. ADA considerations. Sidewalk and multi-purpose trail access and safety considerations for the disabled, including compliance with the Americans with Disabilities Act.

(2) Permit not required. A registrant shall be allowed to perform the following limited work within the public rights-of-way without first obtaining a permit provided that such proposed limited work does not involve excavation, or the closure of a sidewalk or vehicle lane:

- a. routine maintenance or emergency maintenance, subject to the notification provisions of this article;
 - b. replacement of existing wireless facilities with wireless facilities that are substantially similar or of the same or smaller size; or
 - c. installation, placement, maintenance, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles in compliance with applicable codes by or for a communications services provider authorized to occupy the rights-of-way and who is remitting taxes under chapter 202, Fla. Stat.
- (b) Permit applications. Except as otherwise provided by applicable law, permit applications to place a communications facility in the Town's public rights-of-way shall contain the following information, unless the Town Engineer, or designee, determines based on the circumstances of a particular application and proposed facility that the information is not necessary for the proper management of the Town's rights-of-way:
- (1) Site plan. A site plan, in the form of signed and sealed plans from a Florida licensed professional engineer of record that show the location of the proposed facilities in the Town's public rights-of-way, in a hard copy format or electronic format specified by the Town engineer. The site plan shall also include:
- a. a description of the facilities to be installed, where the facilities are to be located, and the size, dimensions and height of the proposed facilities that will be located in the Town's public rights-of-way; and
 - b. for new communications facility poles or wireless support structures, how many collocations the new poles or structures can support in terms of capacity; and
 - c. sufficient specificity as to demonstrate compliance with the Florida Building Code, specifically in terms of compliance with ASCE-7-10, or latest edition for requirements of wind load; and

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- d. for new communication facility poles, wireless support structures, or any excavation work, a geotechnical report for the existing soil conditions, or a soil statement by a Florida licensed professional engineer, attesting to the soil conditions.
- (2) Full color photo-simulation. A full color photo-simulation showing the proposed new communication facility poles and wireless support structures installed in accordance with the application from the point of view of properties adjacent to the proposed site.
- (3) Description of installation or construction.
 - a. a description of the type of facility and the manner in which the facility will be installed and/or modified (i.e. anticipated construction methods or techniques); and
 - b. a description of stealth design to be utilized. Additionally, each application for a permit to place a communications facility pole or a wireless support structure in the Town's public rights-of-way shall include photographs showing the location and condition of the surrounding neighborhood, and a description of the stealth design techniques proposed to minimize the visual impact of the communications facility pole or wireless support structure and graphic depictions accurately representing the visual impact of the communications facility pole or wireless support structure when viewed from the street and from adjacent properties.
 - c. alternatively, a signed and sealed statement from a Florida state licensed professional engineer that stealth design cannot be utilized on any particular facility and documentation demonstrating to the satisfaction of the Town engineer that the proposed communications facility cannot employ stealth design and the proposed exterior location and configuration of equipment are the minimum equipment necessary to achieve the needed function.
- (4) Temporary sidewalk or multi-purpose trail closure plan. A temporary sidewalk or multi-purpose trail closure plan, if appropriate given the facility proposed, to accommodate placement or maintenance of the communications facility.
- (5) Temporary maintenance of traffic plan. A temporary traffic lane closure and temporary traffic control plan if appropriate given the facility proposed, to accommodate installation and/or modification of the communications facility.
- (6) Capacity of Town public rights-of-way to accommodate the cumulative impact of the proposed facility and other facilities within the Town's public rights-of-way. Information on the capacity of the Town's public rights-of-way to accommodate the cumulative impact of (i) the proposed facility together with (ii) other existing and proposed facilities in the adjacent Town public rights-of-way, if available (such information shall be provided without certification as to correctness, to the extent

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obtained from other persons). Notwithstanding the foregoing, such information is not required with respect to wireline pole attachment installations made in the communications space of utility poles.

- (7) Restoration plan and cost of restoration of the Town's public right-of-way. Based on the facility proposed, a restoration plan and an estimate of the cost of restoration of the Town's public rights-of-way.
- (8) Timetable for construction or installation and intended areas of service. The timetable for placement or maintenance of the proposed facility or each phase of the placement or maintenance thereof, and the intended areas of the Town to be served by the communications facility.
- (9) Project Permits involving multiple collocations or attachments. For project permits that involve multiple collocations or attachments to existing structures, repurposed structures or installation of multiple new wireless support structures, the applicant shall only be required to provide a structural certification by a Florida licensed professional engineer for each type of facility verifying that each type of facility can structurally support the proposed collocations or attachments with the additional loading on the subject structure, not for each facility proposed as part of the overall project. No such certification is required with respect to wireline pole attachment installations made in the communications space of utility poles.
- (10) Certification as to removal of abandoned facilities or equipment. The applicant shall certify that any and all of its abandoned facilities within the Town's public rights-of-way has or have been removed, indicating the prior location of such abandoned facilities.
- (11) Identification of all above-grade and below-grade structures within the Town's public rights-of-way within a five hundred (500) foot radius. In order to assess the impacts on the Town's public rights-of-way resources, the impact on surrounding neighborhoods and other properties within the permit area, and the potential for collocations or use of existing structures, identification of all above-grade structures in the Town's public right-of-way within a five hundred (500) foot radius of the proposed new communications facility (including utility poles, equipment boxes, below-grade and above-grade communications service facilities and antennae) shall be provided (such information may be produced without certification as to correctness to the extent obtained from other registrants with facilities in the Town's public rights-of-way). No such identification is required with respect to wireline pole attachment installations made in the communications space of utility poles or for small wireless facility installations.

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(12) Affidavits.

- a. An application for a permit to install new communications facility pole(s) or new wireless support structures (as opposed to collocations, applications to use an existing structure, or wireline pole attachment installations made in the communication space of utility poles) shall include an affidavit from a Florida licensed professional engineer with a statement that it is not feasible to locate applicant's proposed facilities on existing poles along the proposed route and all the facts relied upon in the applicant's attempt to both collocate or attach the proposed new communications facilities on existing structures within the Town's public rights-of-way, as well as on property outside the Town's public rights-of-way, within a five hundred (500) foot radius of the proposed new communications facility. The affidavit requirement in this subsection (a) shall not apply to applications to install a new utility pole in the public rights-of-way to support the collocation of small wireless facilities.
- b. An application for collocation shall include a signed statement from the owner of the facility or existing structure being collocated upon that the applicant has been granted permission to attach to the facility or existing structure being collocated upon or attached to.
- c. An application from a wireless infrastructure provider to place a new utility pole in the public rights-of-way to support the collocation of small wireless facilities shall include an attestation that small wireless facilities will be collocated on the utility pole or structure and will be used by a wireless services provider to provide service within 9 months after the date the application is approved.

(13) Public notice of new communications facility poles or new wireless support structures.

- a. Simultaneous with the filing of an application for a permit for the installation of a new communications facility pole or a new wireless support structure (except for the filing of an application for the installation of a small wireless facility), the registrant shall submit an affidavit of mailing, attesting that notice of pending application has been mailed to all interested persons within three hundred (300) feet of the proposed permit area, as certified by the Broward County Property Appraiser's Office.
- b. As to owners of condominium or cooperative units where the condominium or cooperative is within three hundred (300) feet of the proposed permit area, the registrant shall satisfy the requirements of this subsection (b) by providing written notice to the respective condominium association or cooperative

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corporation in lieu of written notice to the individual property owners within such condominium or cooperative.

- c. The notice of pending application shall notify the interested persons that an application for a new communications facility pole or wireless support structure has been filed with the Town engineer.
 - d. The notice of pending application shall invite the interested persons to provide comments, inquiries or objections to the Town engineer and registrant within fifteen (15) days of the date the notice was posted to the U.S. mail.
 - e. The notice of pending application shall provide the name, mailing address, e-mail address and phone number of the Town engineer to whom the interested persons should direct their comments, inquiries or objections. The contact information for the Town engineer shall be in 14 point bold faced print.
 - f. The notice of pending application shall contain the following:
 - a. a hard copy of the site plan submitted with the permit application;
 - b. a description of the location of the proposed new communications facility poles or new wireless support structures by reference to the property street addresses abutting the proposed site of the new communications facility poles;
 - c. a description of the new communications facility pole(s) or new wireless support structures to be installed, including the size, dimensions and height of the proposed new communications facility pole(s) or new wireless support structures;
 - d. a full color photo-simulation showing the proposed new communications facility pole(s) or new wireless support structures installed in accordance with the application from the point of view the properties adjacent to the proposed site, together with depictions of any stealth design features to be utilized; and
 - e. the location where the interested persons may go to examine any other materials relative to the pending application.
- (14) Registrant agrees to indemnification. A statement shall be included within the application for a permit that by execution of the application and by applying for the permit, the registrant agrees to be bound to the Town with respect to the indemnification provisions set forth in section 26-38 of this article as though such indemnification provisions are set forth verbatim in the permit application.

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- (15) Additional information as reasonably required for review of permit application. Such additional information as the Town engineer finds reasonably necessary with respect to the placement or maintenance of the communications facility that is the subject of the permit application to review such permit application, which information may include, but is not necessarily limited to: (i) evidence satisfactory to the Town engineer that the proposed facility will not pose a risk of explosion, fire, or other danger to life or property due to its proximity to volatile, flammable, explosive or other dangerous chemicals; and (ii) a written statement from a qualified radio frequency engineer that the construction and placement of the proposed facility will not interfere with public safety communications.
- (c) Permit does not create a property right; program areas where overhead utilities are being placed underground. A permit from the Town constitutes authorization to undertake only certain activities in the Town's public rights-of-way in accordance with this article, and does not create a property right to continued occupation of the Town's public rights-of-way or grant authority to impinge upon the rights of others who may have an interest in the Town's public rights-of-way, nor does it create a property right to maintain collocated communications facilities or facilities hosting on repurposed structures or existing structures when such hosting structures are within a program where overhead distribution utilities are being placed underground pursuant to a Town program to underground such overhead distribution facilities.
- (d) Avoidance of interference with Town public rights-of-way.
- (1) All communications facilities shall be placed or maintained so as not to unreasonably interfere with the use of the public rights-of-way by the public and with the rights of the property owners who adjoin the Town's public rights-of-way. The registrant shall endeavor to install all communications facilities underground wherever feasible.
- (2) All construction or maintenance of communications facilities shall be accomplished in the manner that will result in the least amount of damage and disruption to the rights-of-way.
- (3) The use of trenchless technology (i.e. directional bore method) for the installation of facilities in the Town's public rights-of-way as well as joint trenching for the collocation of facilities in existing conduit is strongly encouraged, and the Town may require such methods wherever feasible and not inconsistent with applicable law.
- (e) Avoidance of interference, displacement, damage or destruction or destruction of other facilities. A registrant shall not place or maintain its communications facilities so as to

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interfere with, displace, damage or destroy any facilities, including but not limited to sewers, gas or water mains, storm drains, storm drainage lines, pipes, cables or conduits of the Town or any other person's facilities lawfully occupying the Town's public rights-of-way. The registrant shall be liable for the displacement, damage or destruction of any property, irrigation system or landscaping as a result of the placement or maintenance of its facility within the public rights-of-way. The Town manager or designee may issue such rules and regulations concerning the placement or maintenance of a communications facility in public rights-of-way as may be consistent with this article and other applicable law.

- (f) Coordination with other work in Town public rights-of-way. Upon request of the Town, and as notified by the Town of other work, construction, installation or repairs referenced below, a registrant may be required to coordinate placement or maintenance activities under a permit with any other work, construction, installation or repairs that may be occurring or scheduled to occur within a reasonable timeframe in the subject Town public right-of-way, and the registrant may be required to reasonably alter its placement or maintenance schedule as necessary so as to minimize disruptions and disturbance in the Town's public rights-of-way and minimize any interference with the existing communications facilities.
- (g) Temporary raising and lowering of communications facilities as accommodation. A registrant shall, on the request of any person holding a permit issued by the Town, temporarily support, protect raise or lower its communications facilities to permit the work authorized by the permit within the Town's public rights-of-way. The expense of such temporary support, protection, raising or lowering of facilities shall be paid by the person requesting it, and the registrant shall have the authority to require such payment in advance. To the extent possible, the registrant shall be given not less than thirty (30) days advance written notice to arrange for such temporary support, protection or relocation. If the Town requests the temporary support, protection, raising or lowering of a facility for a public purpose, the Town shall not be charged for the temporary support, protection, raising or lowering of the facility.
- (h) Restoration of Town public rights-of-way. After the completion of any placement or maintenance work involving a communications facility in a Town public right-of-way or each phase thereof, a registrant shall, at its own expense, restore the Town public right-of-way to its existing condition prior to such work. If the registrant fails to make such restoration within thirty (30) days, or such longer period of time as may be reasonably required under the circumstances, following the completion of such placement or maintenance work, the Town may perform restoration and charge the costs of the restoration against the registrant in accordance with section 337.402, Florida Statutes, as

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may be amended from time to time. For twelve (12) months following the original completion of the work, the registrant shall guarantee its restoration work and shall correct any restoration work that does not satisfy the requirements of this article at its own expense.

(i) Removal or relocation governed by Florida law; conversion of overhead distribution facilities to underground distribution facilities.

(1) Removal or relocation at the direction of the Town of a registrant's communications facilities in a Town public right-of-way shall be governed by the provisions of sections 337.402, 337.403 and 337.404, Florida Statutes, as amended from time to time.

(2) Subject to applicable law, whenever existing overhead utility distribution facilities are converted to underground distribution facilities, any registrant having communications facilities located on a communications facility pole or utility pole which is to be removed as a result of said underground conversion shall arrange at their sole expense for the conversion to underground facilities (for wired facilities) or above ground relocation (for wireless facilities) on the same terms and conditions as the other utility distribution facilities that are being converted to underground distribution facilities.

(j) Maintenance in accordance with industry standards and applicable law. A registrant shall maintain its communications facilities in good condition, order and repair in a manner consistent with accepted industry practice and applicable law.

(1) Owners of communications facilities located in Town public rights-of-way shall install and maintain communications facilities and other appurtenant equipment in compliance with the requirements of all applicable laws and codes, and in such a manner that will not interfere with the use of other property or facilities within the Town's public rights-of-way.

(2) All communications facilities and other appurtenant equipment shall, at all times, be kept and maintained in good condition, order and repair so that the same shall not endanger the life or property of any person or other facilities in the Town's public rights-of-way.

(k) Maintenance of graffiti plan. Each communications facility within the Town's public rights-of-way, including any appurtenant features incorporated therewith under this article, shall be maintained in a neat and clean condition at all times. Specifically, but not without limiting the generality of the foregoing, each communications facility in the Town's public rights-of-way shall be regularly maintained so that:

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- (1) it is free of graffiti visible from the Town's public rights-of-way or surrounding neighborhood at grade. All graffiti shall be removed within ten (10) working days from receipt of notice thereof by the Town that graffiti exists on the communications facility or any portion thereof. A fine of \$50.00 per day shall be imposed for each and every day of non-compliance after receipt of notice by the Town; and
- (2) it is reasonably free of dirt and grease, rust and corrosion in visible metal areas, chipped, faded, peeling and cracked paint that is visible from the Town's public right-of-way at grade. All such conditions shall be remedied within thirty (30) working days from receipt of notice thereof from the Town.
- (l) Safety practices; encourage strengthening utility infrastructure and infrastructure hardening plan. All safety practices required by applicable law or accepted industry practices and standards shall be used during the placement or maintenance of communications facilities. The Town's policies strongly favor strengthening utility infrastructure and in particular as it relates to flooding and hurricane related events, and applicants are encouraged to implement an infrastructure hardening plan for any communications facilities within the Town's public rights-of-way.
- (m) Underground facility damage prevention and safety act. In connection with excavation in the Town's public rights-of-way, a registrant shall, where applicable, comply with the Underground Facility Damage Prevention and Safety Act set forth in Chapter 556, Florida Statutes, as may be amended from time to time.
- (n) Use of due caution. Registrants shall use and exercise due caution, care and skill in performing work in the Town's public rights-of-way and shall take all reasonable steps to safeguard work site areas, including, but not limited to those safeguards set forth in chapter 33 of the Florida Building Code. A registrant shall not place or maintain its communications facilities so as to interfere, displace, damage or destroy any facilities, including but not limited to, sewers, gas or water mains, storm drains, pipes, cables or conduits of the Town or any other person's facilities lawfully occupying the public rights-of-way of the Town.
- (o) No warranties or representations regarding fitness, suitability or availability of Town public rights-of-way. The Town makes no warranties or representations regarding the fitness, suitability, or availability of the Town's public rights-of-way for the registrant's communications facilities. Any performance of work, costs incurred or services provided by the registrant shall be at the registrant's sole risk. Nothing in this article shall affect the Town's authority to add, vacate or abandon its public rights-of-way, and the Town makes no warranties or representations regarding the availability of any added, vacated or abandoned public rights-of-way for communications facilities.

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- (p) Right of inspection. The Town shall have the right to make such inspections of communications facilities placed or maintained in its public rights-of-way as it finds necessary and upon reasonable notice to ensure compliance with this article.
- (1) Upon completion of work authorized by any permit, in the event that field work resulted in changes from the permit plans, the applicant shall furnish to the Town, at no cost to the Town, one complete set of sealed "as-built" plans, or in the case of any underground utility facilities, a sealed survey showing the exact location of such facilities, including their depth; or in either case, such other documentation describing the location (including height or depth, as the case may be) of facilities as the Town engineer may approve.
- (2) The "as-built" plans shall be provided to the Town at no cost to the Town in the following formats: one (1) 24" x 36" certified hard copy, and one (1) electronic pdf format copy on a CD or flash drive.
- (3) This requirement shall be in addition to, and not in lieu of, any filings the registrant is required to make under the Underground Facility Damage Prevention and Safety Act set forth in Chapter 556, Florida Statutes, as may be amended from time to time.
- (4) The fact that such "as-built" plans or survey is on file with the Town shall in no way abrogate the duty of any person to comply with the aforesaid Underground Facility Damage Prevention and Safety Act when performing work in the Town's public rights-of-way.
- (5) Any proprietary confidential business information obtained from a registrant in connection with a permit application shall be held confidential by the Town to the extent required by section 202.195, Florida Statutes, as may be amended from time to time, provided the registrant so notifies the Town which information is confidential in accordance with Florida's public records laws.
- (q) Building Code; high velocity hurricane zone. In addition to the requirements of this article, all permitted facilities shall comply with the applicable provisions of the Florida Building Code. Communications facilities shall be considered to be structures under building risk category IV, structures, Chapter 16, section 1620 - 1621, high velocity hurricane zone area. Signed and sealed design and wind load calculation shall be provided by a Florida licensed professional engineer and a permit under the Florida Building Code shall be required.

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(r) Permit processing timeframes; “shot clock.” The Town’s action on proposals to place or maintain communications facilities shall be subject to the applicable standards and time frames set out in Sections 337.401 and 365.172, Florida Statutes, as may be amended from time to time; and 47 U.S.C. § 1455 (a) and Orders issued by the FCC, as same may be amended from time to time. All Federal and State “shot clock” timeframe guidelines that apply to any particular permit are hereby recognized by the Town, and the Town will make all reasonable efforts to comply therewith.

(s) Project permit.

(1) General. The Town may issue a single project permit that would otherwise require individual permits for two or more collocations, existing structures, repurposed structures or pole attachments that form a cluster or multiple clusters to serve a specified service area. New communication facility poles or wireless support structures may not be included in any project permit. The process will start with a preliminary review meeting. After completion of this meeting, a project plan shall be submitted with project permit application.

(2) Preliminary review meeting. A meeting with Town engineer shall occur to discuss code concerns prior to submitting project plans. For purposes of the master project plan, this meeting is the forum in which the design team describes their intentions for the completion sequence. This is a crucial step that designates how to permit the entire project in order to realize these intentions. From information gathered at the meeting, a project plan shall be created and submitted with a permit application. At the Town engineer’s sole discretion, upon a determination that a proposed project permit is too large to be processed and completed as such, said proposed project permit may be broken into multiple individual permits or smaller project permits, in any combination.

(3) Project plan. An organization chart that breaks down the phases of the project shall be included. The organization is arranged to reflect the dependency that exist between sub-projects. The purpose of the preliminary project plan is to show the sequence of completion for the project. The entire project contained in a project permit must be completely constructed within 6 months from permit issuance.

(t) Routine maintenance and emergency notices and permits. In the case of routine maintenance, a registrant shall provide at least three (3) days’ advance written notice to the Town identifying the areas where such maintenance will occur, scope of maintenance, date(s) and duration of work to be performed. In the case of an emergency, a registrant may restore its damaged facilities in the Town’s public rights-of-way to their

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pre-emergency condition or replace its destroyed facilities in the Town's public rights-of-way with facilities of the same size, character and quality, all without first applying for or receiving a permit.

A registrant shall provide prompt notice to the Town of the emergency repair or replacement of a communications facility in the Town's public right-of-way, and shall be required to obtain an after-the-fact permit if a permit would have originally been required to perform the work undertaken in connection with the emergency.

(u) Issuance of permit in violation of Town code or construction in violation of Town code.

(1) The issuance of a permit for a communications facility shall not be construed as a right to placement or maintenance of the communications facility that fails to meet the requirements of this article.

(2) The issuance of a permit for a communications facility shall not be deemed or construed to be a permit for or approval of any violation of any of the provisions of this article. A permit presuming to give authority to violate or cancel the provisions of the Town code shall be void and invalid except insofar as the work or use that it authorizes is lawful.

(v) Permit required. Notwithstanding any other provision to the contrary, a right-of-way permit from the Town is required for any work that involves excavation, closure of a sidewalk or multi-purpose trail or closure of a vehicular lane.

No permit fees for work under this article. Pursuant to section 337.401(3)(c), Florida Statutes, as amended from time to time, and other applicable provisions of law, the Town has elected not to charge permit fees to any registrant for permits to do work under this article in the Town public rights-of-way. Notwithstanding the foregoing, pass-through providers shall be subject to the fees set forth in Town code section 25-43.

(w) Repurposed structures. Unless stated otherwise, or as otherwise limited by applicable law, all requirements imposed on communications facilities shall also apply to repurposed structures. The provider attaching its communications facilities to a repurposed structure shall be responsible for registration and permitting requirements of this article to the extent they were exempted prior to the act of repurposing the existing structure. The provider that later removes a repurposed structure (other than a utility pole) shall reinstall a replacement communications facility pole in the Town's public right-of-way, at the direction and discretion of the Town

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~~Sec. 25-36. Placement or maintenance of a communications facility in public rights of way.~~

~~(a) Registrant shall at all times comply with and abide by all applicable provisions of State, Federal and local law and Town ordinances, codes and regulations in placing or maintaining a communications facility in public rights of way.~~

~~(b) A registrant shall not commence to place or maintain a communications facility in public rights of way until all applicable permits, if any, have been issued by the Town or other appropriate authority, except in the case of an emergency. The term "emergency" shall mean a condition that affects the public's health, safety or welfare, which includes an unplanned out-of-service condition of a pre-existing service. Registrant shall provide prompt notice to the Town of the placement or maintenance of a communications facility in public rights of way in the event of an emergency and shall be required to obtain an after-the-fact permit if a permit would have originally been required to perform the work undertaken in public rights of way in connection with the emergency. Registrant acknowledges that as a condition of granting such permits, the Town may impose reasonable rules or regulations governing the placement or maintenance of a communications facility in public rights of way. Permits shall apply only to the areas of public rights of way specifically identified in the permit. The Town may issue a blanket permit to cover certain activities, such as routine maintenance and repair activities, that may otherwise require individual permits.~~

~~(c) As part of any permit application to place a new or replace an existing communications facility in public rights of way, the registrant shall provide the following:~~

- ~~(1) An engineering site plan signed and sealed by a Florida Registered licensed Professional Engineer, or prepared by a person who is exempt from such registration requirements as provided in F.S. § 471.003, identifying the location of the proposed facility, including a description of the facilities to be installed, where it is to be located, and the approximate size of facilities and equipment that will be located in public rights of way;~~
- ~~(2) A description of the manner in which the facility will be installed (i.e. anticipated construction methods or techniques);~~
- ~~(3) A maintenance of traffic plan for any disruption of the public rights of way;~~
- ~~(4) Information on the ability of the public rights of way to accommodate the proposed facility, if available (such information shall be provided without certification as to correctness, to the extent obtained from other persons with facilities in the public rights of way);~~
- ~~(5) If appropriate given the facility proposed, an estimate of the cost of restoration to the public rights of way;~~
- ~~(6) The timetable for construction of the project or each phase thereof, and the areas of the Town which will be affected; and~~
- ~~(7) Such additional information requested by the Town that the Town finds reasonably necessary to review such permit application.~~

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- ~~(d) — To the extent not otherwise prohibited by State or Federal law, the Town shall have the power to prohibit or limit the placement of new or additional communications facilities within a particular area of public rights of way. The Town shall have the power to prohibit or limit the placement of new or additional communications facilities within the public rights of way if there is insufficient space to accommodate all of the requests to place and maintain facilities in that area of the public rights of way, for the protection of existing facilities in the public rights of way or to accommodate Town plans for public improvements or projects that the Town determines are in the public interest.~~
- ~~(e) — All communications facilities shall be placed and maintained so as not to unreasonably interfere with the use of the public rights of way by the public and with the rights and convenience of property owners who adjoin any of the public rights of way. All facilities shall be placed underground to the extent that similarly situated utilities (electric, communications, etc.) are so required. The Town may require the use of trenchless technology (i.e., directional bore method) for the installation of facilities in the public rights of way as well as joint trenching or the co-location of facilities in existing conduit. The registrant shall be liable for the displacement, damage or destruction of any property, irrigation system or landscaping as a result of the placement or maintenance of its facility within the public rights of way. The Town Manager may promulgate reasonable rules and regulations concerning the placement or maintenance of a communications facility in public rights of way consistent with this article and other applicable law. All facilities shall be placed underground to the extent not inconsistent with the rules of the Public Service Commission.~~
- ~~(f) — All safety practices required by applicable law or accepted industry practices and standards shall be used during the placement or maintenance of communications facilities.~~
- ~~(g) — A registrant shall, at its own expense, restore the public rights of way to at least its original condition before such work after the completion of any placement or maintenance of a communications facility in public rights of way or each phase thereof. If the registrant fails to make such restoration within 30 days following the completion of such placement or maintenance, the Town may perform such restoration as it deems necessary and charge all costs of the restoration against the registrant in accordance with F.S. § 337.402, as it may be amended. The registrant shall guarantee its restoration work and shall correct any improper restoration work at its own expense for 12 months following the original completion of the work.~~
- ~~(h) — Removal or relocation at the direction of the Town of a registrant's communications facility in public rights of way shall be governed by the provisions of F.S. §§ 337.403 and 337.404, as they may be amended.~~
- ~~(i) — A permit from the Town constitutes authorization to undertake only certain activities on public rights of way in accordance with this article, and does not create a property right or grant authority to impinge upon the rights of others who may have an interest in the public rights of way.~~
- ~~(j) — A registrant shall maintain its communications facility in public rights of way in a manner consistent with accepted industry practice and applicable law.~~

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- ~~(k) — In connection with excavation in the public rights-of-way, a registrant shall, where applicable, comply with the Underground Facility Damage Prevention and Safety Act set forth in F.S. ch. 556, as it may be amended.~~
- ~~(l) — Registrant shall place or maintain a communications facility in public rights-of-way in compliance with all applicable standards as established by all local, State or Federal law and in conformance with the Town ordinances, codes and regulations. Registrant shall use and exercise due caution, care and skill in performing work in the public rights-of-way and shall take all reasonable steps to safeguard work site areas.~~
- ~~(m) — In the interest of the public's health, safety and welfare, upon request of the Town, a registrant shall coordinate placement or maintenance activities under a permit with any other work, construction, installation or repairs that may be occurring or scheduled to occur within a reasonable timeframe in the subject public rights-of-way. The Town may require registrant to alter its placement or maintenance schedule as Town determines to be reasonably necessary so as to minimize disruptions and disturbance in the public rights-of-way. The Town may provide a more definite time frame based on individual Town construction or maintenance schedules.~~
- ~~(n) — A registrant shall not place or maintain its communications facilities so as to interfere, displace, damage or destroy any facilities, including but not limited to, sewers, gas or water mains, storm drains, pipes, cables or conduits of the Town or any other person's facilities lawfully occupying the public rights-of-way of the Town.~~
- ~~(o) — Town makes no warranties or representations regarding the fitness, suitability, or availability of Town's public rights-of-way for the registrant's communications facilities and any performance of work or costs incurred by registrant or provision of services shall be at registrant's sole risk. Nothing in this article shall affect the Town's authority to add, vacate or abandon public rights-of-way and Town makes no warranties or representations regarding the availability of any added, vacated or abandoned public rights-of-way for communications facilities.~~
- ~~(p) — The Town shall have the right to make such inspections of communications facilities placed or maintained in public rights-of-way as it finds necessary to ensure compliance with this article. In the event the Town determines that a violation exists with respect to registrant's placement or maintenance of facilities in the public rights-of-way that is not considered to be an emergency or danger to the public health, safety or welfare, the Town will provide registrant at least three days written notice setting forth the violation and requesting correction.~~
- ~~(q) — A permit application to place a new or replace an existing communications facility in public rights-of-way shall include plans showing the location of the proposed installation of facilities in the public rights-of-way. If the plans so provided require revision based upon actual installation, the registrant shall promptly provide revised plans. The plans shall be in a hard copy format or an electronic format specified by the Town, provided such electronic format is maintained by the registrant. Such plans in a format maintained by the registrant shall be provided at no cost to the Town. The plans shall be in a digitized format showing the two-dimensional location of the facilities based on the Town's geographical database, or other format acceptable to the Town. The Town shall maintain the confidentiality of such~~

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plans and any other information provided in accordance with F.S. § 202.195, as it may be amended.

- ~~(r) The Town reserves the right to place and maintain, and permit to be placed or maintained, sewer, gas, water, electric, storm drainage, communications, and other facilities, cables or conduit, and to do, and to permit to be done, any underground and overhead installation or improvement that may be deemed necessary or proper by the Town in public rights-of-way occupied by the registrant. Registrant shall, if registrant so agrees, allow Town facilities to be co-located within [the] Town's public rights-of-way through the use of a joint trench during registrant's construction project. Such joint trench projects shall be negotiated in good faith by separate agreement between registrant and [the] Town and may be subjected to other Town rights-of-way requirements. The Town further reserves without limitation the right to alter, change, or cause to be changed, the grading, installation, relocation, or width of the public rights-of-way within the limits of the Town and within said limits as same may from time to time be altered.~~
- ~~(s) A registrant shall, on the request of any person holding a permit issued by the Town, temporarily raise or lower its communications facilities to permit the work authorized by the permit. The expense of such temporary raising or lowering of facilities shall be paid by the person requesting the same, and the registrant shall have the authority to require such payment in advance. The registrant shall be given not less than 30 days advance written notice to arrange for such temporary relocation. If [the] Town requests a temporary raising or lowering of a facility for a public purpose, [the] Town shall not be charged for the temporary raising or lowering of the facility.~~

Sec. 25-36. - Design standards for compatibility with surrounding neighborhood; prevention of pole proliferation and saturation of Town public rights-of-way.

- (a) In general. Above-ground communications facilities, including wireless communications facilities and support structures, shall be designed in such a manner that the facilities and structures are compatible with the surrounding neighborhood and minimize any negative visual impact on the surrounding neighborhood. In order to achieve compatibility with the surrounding neighborhood and to minimize the negative visual impact on the surrounding neighborhood, the regulations in this section 26-36 shall apply, unless otherwise provided pursuant to this section.
- (b) Stealth design. Stealth design for above-ground communications facilities, and in particular, communications facility poles and wireless support structures, shall be utilized wherever possible in order to minimize the visual impact of communications facilities on, and preserve compatibility with, surrounding neighborhoods, and in order to eliminate the need to locate any ground or elevated equipment on the exterior of a communications facility or existing structure. Stealth design is not required with respect to wireline pole attachment installations made in the communication space of utility poles. To the extent reasonably practicable for the site, stealth design features shall include, but are not limited to, the following:

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- (1) For new communications facility poles and new wireless support structures, as well as existing structures in the Town's public rights-of-way, (i) top mounted antennas within enclosures that do not extend the diameter of the supporting communications facility pole, wireless support structure, existing structure or other support structure at the level of antenna attachment, or (ii) side mounted antennas within enclosures that extend no more than two (2) feet beyond the exterior dimensions of the supporting structure at the level of antenna attachment shall be utilized. For purposes of calculating the above, the dimensions of the supporting communications facility pole, wireless support structure, existing structure or other support structure do not include any platform, rack, mount or other hardware used to attach an antenna or antenna enclosure to the supporting structure. Nothing contained in this subparagraph (1) shall be construed to limit stealth design as specified in other subparagraphs below.
- (2) The use of foliage and vegetation based on conditions of the specific area where the facility is to be located. Trees shall be determined and approved by the Town's landscape plans examiner under separate permit.
- (3) Equipment wraps (the imagery in a wrap shall not contain any advertising).
- (4) Flag poles.
- (5) Street light fixtures.
- (6) Other stealth design proposed by an applicant and approved by the Town based on unique circumstances applicable to the facility or the location or both.

All stealth designed communications facilities components, including associated hardware, shall be designed and constructed in accordance with the high velocity zone criteria specified in the Florida Building Code, Chapter 16 and considered as structures under building risk category II. Design and wind load calculations shall be provided per ASCE 7 - 10 (170 MPH). Calculations should be accompanied by Miami-Dade County Notice of Acceptance (NOA)/Product Approvals.

- (c) No Signage. Registrants shall not place or maintain signage on communications facilities in Town public rights-of-way, unless otherwise required by federal or state law, provided; however, that existing structures that lawfully supported signage before being repurposed may continue to support signage as otherwise permitted by law or Town code, as may be amended from time to time.
- (d) Exterior finish. Communications facilities not requiring FAA painting or marking shall have an Exterior hard durable finish that enhances compatibility with adjacent uses, as approved by the Town engineer.

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- (e) Lighting. A communications facility shall not have any type of lighted signal, lights, or illuminations unless required by an applicable federal, State, or local rule, regulation, the FAA or law; provided, however, the Town may require the installation of an LED street light on a new communications facility pole or wireless support structure or an existing structure functioning as a light pole.
- (f) Maximum height restrictions. Subject to the equipment volume and antenna volume limitations, a communications facility, including any attached antennas, shall not exceed the following height:
 - (1) Poles along roadways. The height of a new communications facility pole or wireless support structure within the public rights-of-way shall only be as high as reasonably necessary to achieve its intended purpose and shall not exceed the height of existing poles or structures in the public rights-of-way within 100 feet of the proposed new communications facility pole or wireless support structure. If no such existing poles are present in the public rights-of-way within 100 feet, the new communications facility pole or a new wireless support structure shall not exceed a height of 30 feet. Height shall be measured from the crown of the road of the nearest public street.
 - (2) Top mounted Antennas. Top mounted antennas may extend an additional four (4) feet in height in excess of the height limitations set forth in (F)(1), above.
 - (3) Colocations and repurposed structures. For each collocation or repurposed structure, top mounted antennas may extend an additional six (6) feet in height in excess of the height limitations set forth in (F)(1), above.
 - (4) Above grade requirement. All antennas shall be no less than eight (8) feet above grade.
 - (5) Small wireless facilities. See section 25-44(g) of this article.
- (g) Equipment and antenna volume.
 - (1) Subject to height limits and antenna volume limits, equipment that may be associated with communications facilities (excluding equipment directly associated with a small wireless facility) attached to an existing structure or a new communications facility pole or a new wireless support structure or located in the Town's public right-of-way at grade, not including associated antenna(s), electric meter, telecom demarcation box, battery-back up power systems, grounding equipment, or power transfer switch, shall not exceed seventeen (17) cubic feet.
 - (2) Antenna volume. Subject to height limits and equipment volume limits, each antenna that may be associated with the installation of a communications facility (excluding equipment directly associated with a small wireless facility) shall not exceed more than three (3) cubic feet in volume. Each antenna that is exposed and not concealed within a

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concealment enclosure shall fit within an imaginary enclosure that does not exceed three (3) cubic feet.

- (h) Prohibition against placement on certain roadways where the Town has plans for sidewalks; preference for arterial or collector roadways. No communications facility shall be placed or maintained in the swale area on the side of a collector roadway or local roadway where the Town has documented plans to install a sidewalk of five (5) feet in width or more, nor shall such communications facility be located in such a manner that would preclude a five (5) foot clear pathway for the planned sidewalk. Otherwise, communications facilities shall generally be placed in arterial or collector roadways whenever possible. Placement of communications facilities in rights-of-way other than arterial or collector roadways shall be justified by the applicant to the satisfaction of the Town engineer prior to the issuance of any permit. Communications facilities otherwise prohibited by this section shall be permitted if installed on an existing structure or repurposed structure located in these areas, subject to any future relocation of the existing structure or repurposed structure to accommodate the sidewalk.
- (i) Minimum distance separation from edge of pavement. No communications facility shall be placed or maintained in the Town's public rights-of-way in violation of minimum distance separation from edge of pavement in accordance the State of Florida Department of Transportation Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways, Table 3-13, Minimum Width of Clear Zones. In accordance with Table 3-13, the Town engineer shall have the authority to reduce the four (4) foot minimum offset identified in Table 3-13 where that offset cannot be reasonably obtained and other alternatives are deemed impractical, the Town engineer shall have the authority to decide reductions in the clear zone in accordance with the above referenced Table 3-13. Communications facilities otherwise prohibited by this section shall be permitted if installed on an existing structure or repurposed structure located in these areas.
- (j) Minimum distance separation from existing sidewalk. No communications facility pole or wireless support structure shall be placed or maintained in the Town's public rights-of-way within one (1) foot of an existing sidewalk. Collocation and use of repurposed structures are exempt from this requirement.
- (k) Installation at outermost boundary of Town public rights-of-way. Where a superior site design results from placement of a communications facility at or near the outermost boundary of the Town's public right-of-way, the farthest distance practicable from the centerline of the public right-of-way and edge of pavement is encouraged. To the extent that the location of the sidewalk within the Town's public right-of-way precludes achievement of a superior site design or otherwise precludes compliance with all other requirements of this article, then the Town engineer or registrant may propose and the registrant may include in the permit application a proposed re-routing of the sidewalk at its own expense, in order to achieve such superior site design or otherwise meet other requirements of this article. Communications facilities otherwise prohibited by this section shall be permitted if installed on an existing structure or repurposed structure located in these restricted areas, subject to any future relocation of the existing structure or repurposed structure to accommodate the sidewalk.

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- (l) Distance separation between communications facility poles and wireless support structures in Town public rights-of-way. Communications facility poles and wireless support structures in the Town's public rights-of-way must be spaced a minimum of five hundred (500) linear feet apart from each other, along the line of general vehicular travel, except that no distance requirement shall apply to collocations or existing structures.
- (m) Site Triangles. Except on existing structures, no new communications facility shall be constructed or installed within a triangular shaped area of land, known as a "site triangle," and measured in accordance with FDOT standards.
- (n) Emphasis on arterial or collector roadways. Registrants seeking to place or maintain a communications facility pole or a wireless support structure in the Town's public rights-of-way shall locate their facilities in arterial or collector roadways, whenever possible. An application for a permit to place a communications facility pole or a wireless support structure in a Town public right-of-way other than arterial or collector roadways shall explain why the applicant is unable to locate the facilities in an arterial or collector roadway and shall demonstrate to the satisfaction of the Town engineer the need to locate the facilities in the areas proposed in the application. The preceding sentence shall not apply to applications for small wireless facilities. Upon delegation to the Town of the regulatory authorities in this article by the county, state or U.S. Department of Transportation or all of the foregoing entities, then the Town may enforce such regulations in this article within the corporate boundaries of the Town to the extent such authority has been delegated to the Town as stated above.
- (o) Prohibition against placement in a front yard within residential zoned districts; distance from residential structures. No communications facility pole or a wireless support structure (excluding repurposed structures) shall be placed within a Town public right-of-way that abuts any front yard in a residential zoned district. No antenna attached to a freestanding pole in the public rights-of way, other than as a collocation with an existing power, light or other utility pole, or unless installed as a stealth facility, shall be permitted within 50 feet of any principal residential structure.
- (p) Limitation on placement in corner yards within residential zoned districts. A communications facility pole or a wireless support structure within the Town public rights-of- way abutting a corner yard of a corner lot within a residential zoned district shall not be placed any closer than ten (10) feet from the side property line of the lot abutting and adjacent to the corner lot.
- (q) Not significantly impair view from principal structures within residential zoned districts. All communications facility poles or a wireless support structures shall be located such that views from principal structures within residential zoned districts are not significantly impaired. Where possible, newly installed communications facility poles or wireless support structures should be located in areas with existing foliage or other aesthetic features in order to obscure the view of the communications facility pole or wireless support structure within residential zoned districts. The requirements of this subparagraph shall not apply to existing structures, when there is a one-to-one use or repurposing of an existing structure.

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- (r) Waiver of the requirements of this section by Town council. Nothing in section 26-36 shall be construed to prohibit or have the effect of prohibiting the nondiscriminatory and competitively neutral use of Town public rights-of-way by communications service providers, communications facility providers or pass-through providers, in violation of federal or state law. The waiver provisions listed in this subsection apply in those circumstances where a communications service provider, communications facility provider or pass-through provider's competitively use of Town public rights-of-way is impaired by strict application of the requirements of this section 26-36. The Town council shall have the jurisdiction to grant or deny waivers as set forth in this subsection. The following provisions shall govern the granting or denying of a request for a waiver under the requirements of this section 26-36(r):
- (1) Filing of request. A request for a waiver shall be filed with the Town contemporaneously with the permit application.
 - (2) Contents. The request for waiver shall contain each subsection within section 26-35 for which a waiver is sought. A request for a waiver shall include all information described in this subsection (r) and any other information the Town may reasonably require to process the waiver request. The Town council may deny the request for a waiver if it does not comply with the requirements of this section 26-36(r):
 - (3) Factors. The Town council shall consider the following factors and information, which shall be supplied by the applicant in the waiver request, in determining whether to grant a waiver:
 - a. a detailed explanation, with supporting engineering or other data, as to why a waiver from the requirements of section 26-36 is required in order to allow the registrant/applicant to have nondiscriminatory and competitively neutral use of the Town's public rights-of-way;
 - b. availability of collocation opportunities;
 - c. size and height of the proposed facilities;
 - d. location and separation distances of the proposed facilities;
 - e. nature and characteristics of surrounding neighborhood;
 - f. adjacent and nearby topography, tree coverage and foliage of surrounding neighborhood;
 - g. design of the proposed facilities with particular reference to achieving compatibility with the surrounding neighborhood and elimination of adverse visual impacts of such facilities on the surrounding neighborhood;

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- h. any other factors the Town determines to be relevant and that may be considered under applicable law.
- (4) Conditions. In granting any waiver, the Town council may impose conditions to the extent the Town council concludes such conditions are necessary to minimize any adverse effects of the proposed facility on the surrounding neighborhood or to protect the health, safety and welfare of the Town and its residents.
- (5) Four-fifths vote required; criteria. The Town council shall have authority to grant a waiver upon a four-fifths vote of the Town council if the applicant proves by a preponderance of the evidence that each of the below criteria have been met in the application for a waiver:

 - a. there are special conditions and circumstance affecting the proposed site that prevent compliance with the subsections for which a waiver is being sought;
 - b. the proposed waiver, if granted, results in a superior site plan;
 - c. the proposed waiver, if granted, will not be incompatible with adjoining properties or the surrounding neighborhood;
 - d. the proposed waiver, if granted, is ADA compliant;
 - e. the proposed waiver, if granted, complies with FCC regulations;
 - f. the proposed waiver, if granted, preserves to the Town optimum flexibility in its management of its public rights-of-way; and
 - g. the applicant for the waiver demonstrates that the subsection for which the waiver is being sought would unreasonably discriminate against the applicant in favor of another communications service provider or would otherwise violate applicable law.

~~Sec. 25-37. Suspension of permits.~~

- ~~(a) Subject to section 25-38 below, the Town Manager, or his designee may suspend a permit for work in the public rights of way for one or more of the following reasons:~~

 - ~~(1) Failure to satisfy permit conditions, including conditions set forth in this article or other applicable Town ordinances, codes or regulations governing placement or maintenance of communications facilities in public rights of way, including without limitation, failure to take reasonable safety precautions to alert the public of work at the work site, or to restore any public rights of way;~~
 - ~~(2) Misrepresentation or fraud by registrant in a registration or permit application to the Town;~~

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- ~~(3) Failure to properly renew or ineffectiveness of registration; or~~
- ~~(4) Failure to relocate or remove facilities as may be lawfully required by the Town.~~
- ~~(b) After the suspension of a permit pursuant to this section, the Town Manager or his designee shall provide written notice of the reason for the suspension to the registrant.~~

~~Sec. 25-38. Appeals.~~

- ~~(a) Final, written decisions of the Town Manager, or his designee, suspending or denying a permit, denying an application for a registration or denying an application for renewal of a registration are subject to appeal. An appeal must be filed with the Town Clerk within 30 days of the date of the final, written decision to be appealed. Any appeal not timely filed as set forth above shall be waived. The Town Commission shall hear the appeal. The hearing shall occur within 30 days of the receipt of the appeal, unless waived by the registrant, and a written decision shall be rendered within 20 days of the hearing. Upon correction of any grounds that gave rise to a suspension or denial, the suspension or denial shall be lifted.~~
- ~~(b) Nothing in this article shall effect the remedies the Town has available under applicable law.~~

~~Sec. 25-39. Conditional use of public rights of way.~~

- ~~(a) In the event registrant desires to use its existing facilities or to construct new facilities for the purpose of providing other utility or non-utility services to existing or potential consumers or resellers, by providing any other services other than the provision of communications service, or for providing any other use to existing or potential consumers, a registrant shall seek such additional and separate authorization from Town for such activities as may be required by applicable law.~~
- ~~(b) To the extent that a registrant leases or otherwise uses the facilities of a person that is duly registered or otherwise authorized to place or maintain facilities in the public rights-of-way of the Town, registrant shall make no claim, nor assert any right, which will impede the lawful exercise of the Town's rights, including requiring the removal of such facilities from the public rights-of-way of the Town, regardless of the effect on registrant's ability to place or maintain its own communications facilities in public rights-of-way of the Town.~~

Sec. 25-40. Involuntary termination of registration.

- ~~(a) The Town may terminate a registration if:~~
 - ~~(1) A Federal or State authority suspends, denies, or revokes a registrant's certification or license to provide communications services;~~
 - ~~(2) The registrant's placement or maintenance of a communications facility in the public rights-of-way presents an extraordinary danger to the general public or other users of the public rights-of-way and the registrant fails to remedy the danger promptly after receipt of written notice; or~~
 - ~~(3) The registrant ceases to use all of its communications facilities in public rights-of-way and has not complied with section 25-47 of this article.~~

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- (b) ~~Prior to termination, the registrant shall be notified by the Town Manager, or his designee, with a written notice setting forth all matters pertinent to the proposed termination action, including which of subsections (a)(1) through (3) above is applicable as the reason therefore, and describing the proposed action of the Town with respect thereto. The registrant shall have 30 days after receipt of such notice within which to address or eliminate the reason or within which to present a plan, satisfactory to the Town Manager, or his designee, to accomplish the same. If the plan is rejected, the Town Manager, or his designee, shall provide written notice of such rejection to the registrant and shall make a recommendation to the Town Commission regarding a final decision as to termination of registration. A decision by a Town to terminate a registration may only be accomplished by an action of the Town Commission. A registrant shall be notified by written notice of any decision by the Town Commission to terminate its registration. Such written notice shall be sent within seven days after the decision.~~
- (c) ~~In the event of termination, the former registrant shall: (1) notify the Town of the assumption or anticipated assumption by another registrant of ownership of the registrant's communications facilities in public rights-of-way; or (2) provide the Town with an acceptable plan for disposition of its communications facilities in public rights-of-way. If a registrant fails to comply with this subsection (c), the Town may exercise any remedies or rights it has at law or in equity, including but not limiting to taking possession of the facilities, requiring the registrant's bonding company within 90 days of the termination to remove some or all of the facilities from the public rights-of-way and restore the public rights-of-way to its original condition before the removal, or requiring that some or all of the facilities be removed and the public rights-of-way restored to its original condition before the removal at the registrant's expense.~~
- (d) ~~In any event, a terminated registrant shall take such steps as are necessary to render every portion of the communications facilities remaining in the public rights-of-way of the Town safe.~~
- (e) ~~In the event of termination of a registration, this provision does not permit the Town to cause the removal of any communications facilities that are used to provide another service for which the registrant holds a valid certification or license with the governing Federal or State agency, where required, and is properly registered with the Town for such certificated or licensed service, where required.~~

~~Sec. 25-41. Existing communications facilities in public rights-of-way.~~

~~A communications services provider with an existing communications facility in the public rights-of-way of the Town has 60 days from the effective date of this article to comply with the terms of this article, including, but not limited to, registration, or be in violation thereof.~~

Sec. 25-42 37. - Insurance.

(a) Insurance.

- (1) A registrant shall not commence construction, operation or maintenance of the facility without obtaining all insurance required under this section and approval of such insurance by risk management of the Town, nor shall a registrant allow any

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contractor or subcontractor to commence work on its contract or subcontract until all similar such insurance required of the same has been obtained and approved. The required insurance must be obtained and maintained for the entire period the registrant has facilities in the public rights-of-way, and for a period thereafter as specified in the minimum coverages described below. If the registrant, its contractors or subcontractors do not have the required insurance, the Town may order such entities to stop operations until the insurance is obtained and approved.

(b~~2~~) Certificates of insurance, reflecting evidence of the required insurance, shall be filed with the Risk Manager Coordinator. For entities that are entering the market, the certificates shall be filed prior to the commencement of construction and once a year thereafter, and as provided below in the event of a lapse in coverage. For entities that have facilities in the public rights-of-way as of the effective date of this chapter, the certificate shall be filed within 60 calendar days of the adoption of this chapter, annually thereafter, and as provided below in the event of a lapse in coverage.

(e~~3~~) These certificates of insurance shall contain a provision that coverages afforded under these policies will not be canceled until at least 45 calendar days prior written notice has been given to the Town. Policies shall be issued by companies authorized to do business under the laws of the State of Florida. Financial ratings must be no less than "A-VI" in the latest edition of "Bests Key Rating Guide", published by A.M. Best Guide. A registrant may self-insure. Self-insured status must be confirmed with certification of same by presentation of financial statements which are not more than one year old and signed by the registrant's chief financial officer or designee. Information contained therein is subject to review and approval by Town's risk management division.

(e~~4~~) In the event that the insurance certificate provided indicates that the insurance shall terminate or lapse during the period of this contract, then in that event, the registrant shall furnish, at least 30 calendar days prior to the expiration of the date of such insurance, a renewed certificate of insurance of equal and like coverage.

(e~~5~~) A registrant and its contractors or subcontractors engaged in work on the operator's behalf in, on, under or over public rights-of-way, shall maintain the following minimum insurance:

(~~1a.~~) Comprehensive general liability insurance to cover liability bodily injury and property damage. Exposures to be covered are: premises, operations, products/completed operations, and certain contracts. Coverage must be written on an occurrence basis, with the following limits of liability:

~~a.~~ Bodily injury:

- ~~1.~~ Each occurrence \$~~13~~,000,000.00
- ~~2.~~ Annual aggregate ~~13~~,000,000.00

~~b.~~ Property damage:

- ~~1.~~ Each occurrence \$~~13~~,000,000.00
- ~~2.~~ Annual aggregate ~~13~~,000,000.00

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- e. Personal injury:
Annual aggregate \$1,000,000.00
- ~~e.~~ Completed operations and products liability shall be maintained for two years after the abandonment of the facility by the registrant (in the case of the registrant) or completion of the work for the registrant (in the case of a contractor or subcontractor).
- e. Property damage liability insurance shall include coverage for the following hazards: X—Explosion, C—Collapse, U—Underground.
- (2)b. Workers' compensation insurance shall be maintained to comply with statutory limits for all employees, and in the case any work is sublet, each registrant shall require the subcontractors similarly to provide workers' compensation insurance for all the latter's employees unless such employees are covered by the protection afforded by each registrant. Each registrant and its contractors and subcontractors shall maintain employers liability insurance. The following limits must be maintained:
 - a. Workers' compensation Statutory
 - b. Employer's liability \$500,000.00
per occurrence
- (3)c. Comprehensive auto liability:
 - a. Bodily injury:
 - 1. Each occurrence \$1,000,000.00
 - 2. Annual aggregate 3,000,000.00
 - b. Property damage:
 - 1. Each occurrence \$1,000,000.00
 - 2. Annual aggregate 3,000,000.00

Coverage shall include owned, hired and non-owned vehicles.

- d. Registrant may satisfy the minimum limits required above for either commercial general liability, business auto liability and employer's liability coverage under umbrella or excess liability. The umbrella or excess liability shall have an aggregate limit not less than the highest "each occurrence" limit for commercial general liability, business auto liability or employer's liability. The Town shall be specifically endorsed as an "additional insured" on the umbrella or excess liability, unless the certificate of insurance states the umbrella or excess liability provides coverage on a "follow-form" basis.

- (f6) Each communications facility operator shall hold the Town, its agents, and employees, harmless on account of claims for damages to persons, property or premises arising out of its construction, operation or repair of its communications facility and name the Town as an additional insured.

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(g7) This section shall not be construed to affect in any way the Town's rights, privileges and immunities as set forth in F.S. § 768.28. Insurance under this section shall run continuously with the presence of the registrant's facilities in the public rights-of-way and any termination or lapse of such insurance shall be a violation of this section and subject to the remedies as set forth herein. Notwithstanding the foregoing, the Town may, in its sole discretion, require increased or decreased levels of insurance for any other object placed in the Town's public rights-of-way by way of individual license agreements.

Sec. 25-438. - Indemnification.

- (a) A registrant shall, at its sole cost and expense, and to the fullest extent permitted by applicable law, indemnify, hold harmless, and defend the Town, its officials, boards, members, agents, and employees, against any and all claims, suits, causes of action, proceedings, judgments for damages or equitable relief, and costs and expenses incurred by the Town arising out of the placement or maintenance of its communications system or facilities in public rights-of-way, regardless of whether the act or omission complained of is authorized, allowed or prohibited by this article, provided, however, that a registrant's obligation hereunder shall not extend to any claims caused by the gross negligence or wanton or willful acts of the Town. This provision includes, but is not limited to, the Town's reasonable attorneys' fees incurred in defending against any such claim, suit or proceedings. {The} Town agrees to notify the registrant, in writing, within a reasonable time of [the] Town receiving written notice, of any issue it determines may require indemnification. Nothing in this section shall prohibit the Town from participating in the defense of any litigation by its own counsel and at its own cost if in the Town's reasonable belief there exists or may exist a conflict, potential conflict or appearance of a conflict. Nothing contained in this section shall be construed or interpreted: (1) as denying to either party any remedy or defense available to such party under the laws of the State of Florida; (2) as consent by the Town to be sued; or (3) as a waiver of sovereign immunity beyond the waiver provided in F.S. § 768.28, as it may be amended.
- (b) The indemnification requirements shall survive and be in effect after the termination or cancellation of a registration.

Sec. 25-44 39. - Construction bond.

- (a) Prior to issuing a permit where the work under the permit will require restoration of public rights-of-way, {the} Town may require a construction bond to secure the restoration of the public rights-of-way. ~~Notwithstanding the foregoing, a construction bond hereunder shall only be required to the extent that the cost of the restoration exceeds the amount recoverable against the security fund as provided in section 25-45.~~
- (b) In the event a registrant subject to such a construction bond fails to complete the work in a safe, timely and competent manner in accordance with the provisions of the permit, there shall be recoverable, jointly and severally from the principal and surety of the bond, any damages or loss suffered by the Town as a result, including the full amount of any compensation, indemnification or cost of removal or abandonment of any property of the registrant, or the cost of completing the work, plus a reasonable allowance for attorney's fees, up to the full amount of the bond.

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- (c) No less than 12 months and no more than 18 months after completion of the construction and satisfaction of all obligations in accordance with the bond, the registrant may request the Town Manager or his or her designee to remove the requirement to continue the construction bond. Notwithstanding, the Town may require a new bond for any subsequent work performed in the public rights-of-way.
- (d) The construction bond shall be issued by a surety having a minimum rating of A-1 in Best's Key Rating Guide, Property/Casualty Edition; shall be subject to the approval of the Town Attorney; and shall provide that:

"This bond may not be canceled, or allowed to lapse, until 60 days after receipt by the Town, by certified mail, return receipt requested, of a written notice from the issuer of the bond of intent to cancel or not to renew."
- (e) The rights reserved by the Town with respect to any construction bond established pursuant to this section are in addition to all other rights and remedies the Town may have under this section, or at law or equity, and no action, proceeding or exercise of a right with respect to the construction bond will affect any other right the Town may have.

~~Sec. 25-45. Security fund.~~

~~At or prior to the time a registrant receives its first permit to place or maintain a communications facility in public rights of way after the effective date of this article, the registrant may be required to file with the Town, for Town approval, an annual bond, cash deposit or irrevocable letter of credit in the sum of \$25,000.00 having as a surety a company qualified to do business in the State of Florida, and acceptable to the Town Manager or designee, which shall be referred to as the "security fund." The security fund shall be conditioned on the full and faithful performance by the registrant of all requirements, duties and obligations imposed upon registrant by the provisions of this article. The bond or guarantee shall be furnished annually or as frequently as necessary to provide a continuing guarantee of the registrant's full and faithful performance at all times. In the event a registrant fails to perform its duties and obligations imposed upon the registrant by the provisions of this article, subject to this section, there shall be recoverable, jointly and severally from the principal and surety of the bond, any damages or loss suffered by the Town as a result, including the full amount of any compensation, indemnification or cost of removal or abandonment of any property of the registrant, plus a reasonable allowance for attorneys' fees, up to the full amount of the security fund. The Town may in its reasonable discretion accept a corporate guarantee of the registrant or its parent company, if the registrant is a publicly traded company and maintains an insurance rating of no less than A.~~

Sec. 25-460. - Enforcement remedies.

- (a) A registrant's failure to comply with provisions of this article shall constitute a violation of this article and shall subject the registrant to the code enforcement provisions and procedures as provided in F.S. ch. 162 ~~or~~ F.S. § 166.0415, and chapter 6.5 of the Town's Code of Ordinances, as they may be amended. In addition, violation of this article may be punishable by a fine not to exceed \$500.00 or by imprisonment not to exceed 60 days or by both as provided.

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- (b) In addition to any other remedies available at law, including, but not limited to, F.S. § 166.0415 and F.S. ch. 162, or equity or as provided in this article, the Town may apply any one or combination of the following remedies in the event a registrant violates this article, or applicable local law or order related to the public rights-of-way:
 - (1) Failure to comply with the provisions of this article or other law applicable to occupants of the public rights-of-way, may result in imposition of penalties to be paid by the registrant to the Town in an amount of not less than \$100.00 per day or part thereof that the violation continues.
 - (2) In addition to or instead of any other remedy, the Town may seek legal or equitable relief from any court of competent jurisdiction.
- ~~(c) Before imposing a fine pursuant to subsection (b)(1) of this section, the Town shall give written notice of the violation and its intention to assess such penalties, which notice shall contain a description of the alleged violation. Following receipt of such notice, the registrant shall have 30 days to either: (1) cure the violation to the Town's satisfaction and the Town shall make good faith reasonable efforts to assist in resolving the violation; or (2) file an appeal with the Town to contest the alleged violation. Section 25-38 shall govern such appeal. If no appeal is filed and if the violation is not cured within the 30-day period, the Town may collect all fines owed, beginning with the first day of the violation, through any means allowed by law.~~
- (~~d~~c) In determining which remedy or remedies are appropriate, the Town shall take into consideration the nature of the violation, the person or persons bearing the impact of the violation, the nature of the remedy required in order to prevent further violations, and such other matters as the Town determines are appropriate to the public interest.
- (~~e~~d) Failure of the Town to enforce any requirements of this article shall not constitute a waiver of the Town's right to enforce that violation or subsequent violations of the same type or to seek appropriate enforcement remedies.
- (~~f~~e) In any proceeding before the Town where there exists an issue with respect to a registrant's performance of its obligations pursuant to this article, the registrant shall be given the opportunity to provide such information as it may have concerning its compliance with the terms and conditions of this article. The Town may find a registrant that does not demonstrate compliance with the terms and conditions of this article in default and apply any one or combination of the remedies otherwise authorized by this article.
- (~~g~~f) The Town Manager or designee shall be responsible for administration and enforcement of this article, and is authorized to give any notice required by law.

Sec. 25-471. - Abandonment of a communications facility.

- (a) Upon abandonment of a communications facility owned by a registrant in public rights-of-way, the registrant shall notify the Town within 90 days.
- (b) The Town may direct the registrant to remove all or any portion of such abandoned facility at the registrant's sole expense if the Town determines that the abandoned facility's presence interferes with the public health, safety or welfare, which shall include, but is not limited to:
 - (1) compromises safety at any time for any public rights-of-way user or during construction

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or maintenance in public rights-of-way; (2) prevents another person from locating facilities in the area of public rights-of-way where the abandoned facility is located when other alternative locations are not reasonably available; or (3) creates a maintenance condition that is disruptive to the public rights-of-way's use. In the event of (2), the Town may require the third person to coordinate with the registrant that owns the existing facility for joint removal and placement, where agreed to by the registrant.

- (c) In the event that the Town does not direct the removal of the abandoned facility, the registrant, by its notice of abandonment to the Town, shall be deemed to consent to the alteration or removal of all or any portion of the facility by the Town, another utility or person at such third party's cost.
- (d) If the registrant fails to remove all or any portion of an abandoned facility as directed by the Town within a reasonable time period as may be required by the Town under the circumstances, the Town may perform such removal and charge the cost of the removal against the registrant.

~~Sec. 25-48. Force majeure.~~

~~In the event a registrant's performance of or compliance with any of the provisions of this article is prevented by a cause or event not within the registrant's control, such inability to perform or comply shall be deemed excused and no penalties or sanctions shall be imposed as a result, provided, however, that such registrant uses all practicable means to expeditiously cure or correct any such inability to perform or comply. For purposes of this article, causes or events not within a registrant's control shall include, without limitation, acts of God, floods, earthquakes, landslides, hurricanes, fires and other natural disasters, acts of public enemies, riots or civil disturbances, sabotage, strikes and restraints imposed by order of a governmental agency or court. Causes or events within registrant's control, and thus not falling within this section, shall include, without limitation, registrant's financial inability to perform or comply, economic hardship, and misfeasance, malfeasance or nonfeasance by any of registrant's directors, officers, employees, _____ contractors _____ or _____ agents.~~

1 **Sec. 25-492. - Reports and records.**

- 2 (a) ~~Each registrant shall, upon 30 calendar days written notice, if reasonably possible, but in~~
3 ~~no event less than five business days written notice, provide the Town access to all books~~
4 ~~and records related to the construction, maintenance, or repair of the facility to the extent the~~
5 ~~Town review of the books and records is necessary to manage its rights-of-way.~~
- 6 (b) ~~Any and all non-proprietary or non-confidential books and records may be copied by the~~
7 ~~Town. To the maximum extent permitted by F.S. § 202.195, as amended, such books and~~
8 ~~records shall be kept confidential and exempt from the provisions of F.S. § 119.07(1). A~~
9 ~~registrant is responsible for obtaining or maintaining the necessary possession or control of~~
10 ~~all books and records related to the construction, maintenance or repair of the facility, so that~~
11 ~~it can produce the documents upon request. Books and records must be maintained for a~~
12 ~~period of five years, except that any record that is a public record must be maintained for the~~
13 ~~period required by State law.~~

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~~(c) For purposes of this section, the terms "books and records" shall be read expansively to include information in whatever format stored. Books and records requested shall be produced to the Town at Town Hall, except by agreement.~~

~~(d) If any books and records are too voluminous, or for security reasons cannot be copied and moved, then a registrant may request that the inspection take place at some other location mutually agreed to by the Town and the registrant, provided that the registrant must make necessary arrangements for copying documents selected by the Town after its review; and the registrant must pay all travel and additional copying expenses incurred by the Town in inspecting those documents or having those documents inspected by its designee.~~

~~(e) Without limiting the foregoing, a registrant shall provide the Town the following within ten calendar days of their receipt or (in the case of documents created by the registrant or its affiliate) filing:~~

~~(1) Notices of deficiency or forfeiture related to the operation of the facility; and~~

~~(2) Copies of any request for protection under bankruptcy laws, or any judgment related to a declaration of bankruptcy by the operator or by any partnership or corporation that owns or controls the operator directly or indirectly.~~

~~(f) In addition, the Town may, at its option, and upon reasonable notice to the registrant, inspect the facilities in the public rights-of-way to ensure the safety of its residents.~~

(a) A registrant shall provide the following documents to the Town as they are received or filed:

1. Upon reasonable request, any pleadings, petitions, notices, and documents, which may directly impact the obligations under this article and which are reasonably necessary for the Town to protect its interests under this article.

2. Any request for protection under bankruptcy laws, or any judgment related to a declaration of bankruptcy.

(b) Nothing in this section shall affect the remedies registrant has available under applicable law.

(c) In addition, the Town may, at its option, and upon reasonable notice to the registrant, inspect the facilities in the public rights-of-way to ensure the safety of its residents and visitors.

(d) The Town shall keep any documentation, books and records of the registrant confidential if the registrant informs the Town in writing of such confidential material, and only to the extent required under Florida Statutes.

Sec. 25-43. – Pass-through provider fees, charges, and annual statement.

(a) Pass-through providers shall pay to the Town on an annual basis an amount equal to five hundred dollars (\$500.00) per linear mile or portion thereof of communications facilities placed and/or maintained in the Town's public rights-of-way.

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(b) The amounts charged pursuant to this section shall be based on the linear miles of Town rights-of-way where communications facilities are placed, not based on a summation of the lengths of individual cables, conduits, strands or fibers.

(c) Any annual amount charged shall be reduced for a prorated portion of any 12-month period during which the pass-through provider remits taxes imposed by the Town pursuant to chapter 202, Florida statutes, as may be amended from time to time.

(d) Annual payments shall be due and payable on March 1 of each year. Fees not paid within ten (10) days after the due date shall bear interest at the rate of one (1) percent per month from the date due until paid. The acceptance of any payment required hereunder by the Town shall not be construed as an acknowledgement that the amount paid is the correct amount due, nor shall such acceptance of payment be construed as a release of any claim which the Town may have for additional sums due and payable. All fee payments shall be subject to audit by the Town, and assessment or refund if any payment is found to be in error. If such audit results in an assessment by and an additional payment to the Town, such additional payment shall be subject to interest at the rate of one (1) percent per month until the date payment is made.

(e) If the payments required by this section are not made within ninety (90) days after the due date, the Town may withhold the issuance of any permits to the registrant until the amount past due is paid in full.

(f) A pass-through provider shall provide an annual notarized statement identifying the total number of linear miles of pass-through facilities in the Town's rights-of-way. Upon request from the Town, a pass-through provider shall provide reasonable access to maps of pass-through facilities located in the Town rights-of-way. The scope of the request shall be limited to only those maps of pass-through facilities from which the calculation of the linear miles of pass-through facilities in the rights-of-way can be determined.

Sec. 25-44. Small Wireless Facilities.

(a) Registration required; Application. A person that desires to place or maintain a small wireless facility in public rights-of-way within the Town shall first register with the Town in accordance with section 25-34 of this article. As part of any permit application to place a new or replace an existing small wireless facility in the public rights-of-way, the registrant shall provide a proposal to the Town that includes the information required under section 25-34(b) of this article, to the extent such information may be requested under applicable state law, and information documenting compliance with the applicable codes, including but not limited to the design standards applicable to small wireless facilities.

(b) Location; alternative location procedure. Small wireless facilities shall not be subject to the minimum separation distances set forth in section 25-36 of this article, except as expressly permitted by law. Within 14 days after the date of filing a complete application for a small wireless facility, the Town may request that the proposed location of a small wireless facility be moved to another location in the right-of-way and placed on an alternative Town utility pole or

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support structure or may place a new utility pole. The Town and the applicant may negotiate the alternative location, including any objective design standards and reasonable spacing requirements for ground-based equipment, for 30 days after the date of the request. At the conclusion of the negotiation period, if the alternative location is accepted by the applicant, the applicant must notify the Town of such acceptance and the application shall be deemed granted for any new location for which there is agreement and all other locations in the application. If an agreement is not reached, the applicant must notify the Town of such non-agreement and the Town shall grant or deny the original application within 90 days after the date the application was filed. A request for an alternative location, an acceptance of an alternative location, or a rejection of an alternative location must be in writing and provided by electronic mail.

(c) *Collocation application process.* Within 14 days after receiving an application for a permit to collocate a small wireless facility, the Town shall determine and notify the applicant by electronic mail as to whether the application is complete. If an application is deemed incomplete, the Town shall specifically identify the missing information. An application is deemed complete if the Town fails to provide notification to the applicant within 14 days. Pursuant to Section 337.401(7), Fla. Stat., as amended from time to time, a complete application to collocate a small wireless facility is deemed approved if the Town fails to approve or deny the application within 60 days after receipt of the application. If the Town does not use the 30-day negotiation period provided in subsection (a) above, the parties may mutually agree to extend the 60-day application review period. The Town shall grant or deny the application at the end of the extended period. A permit issued pursuant to an approved collocation application shall remain effective for 1 year unless extended by the Town.

(d) *Consolidated application.* An applicant seeking to collocate small wireless facilities within the Town may, at the applicant's discretion, file a consolidated application and receive a single permit for the collocation of up to 30 small wireless facilities. If the application includes multiple small wireless facilities, the Town may separately address small wireless facility collocations for which incomplete information has been received or which are denied.

(e) *Written approval or denial.* The Town shall notify the applicant of approval or denial by electronic mail. The Town shall approve a complete application unless it does not meet the applicable codes. If the application is denied, the Town shall specify in writing the basis for denial, including the specific code provision(s) on which the denial was based, and send the documentation to the applicant by electronic mail on the day the Town denies the application. The applicant may cure the deficiencies identified by the Town and resubmit the application within 30 days after notice of the denial is sent to the applicant. The Town shall approve or deny the revised application within 30 days after receipt or the application is deemed approved. Any subsequent review shall be limited to the deficiencies cited in the denial.

(f) *Basis for denial.* The Town may deny a proposed collocation of a small wireless facility in the public rights-of-way if the proposed collocation:

- (1) Materially interferes with the safe operation of traffic control equipment;
- (2) Materially interferes with sight lines or clear zones for transportation, pedestrians, or

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public safety purposes;

(3) Materially interferes with compliance with the Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement;

(4) Materially fails to comply with the 2017 edition of the Florida Department of Transportation Utility Accommodation Manual; or

(5) Fails to comply with applicable codes.

(g) Height. The height of a small wireless facility shall not exceed 10 feet above the utility pole or structure upon which the small wireless facility is to be collocated. The height for a new utility pole is limited to the tallest existing utility pole as of July 1, 2017, located in the same right-of-way, other than a utility pole for which a waiver has previously been granted, measured from grade in place within 500 feet of the proposed location of the small wireless facility. If there is no utility pole within 500 feet, the height of the utility pole upon which the small wireless facility is to be collocated shall not exceed 50 feet and shall only be as high as reasonably necessary to achieve its intended purpose.

(h) Collocation on Town utility poles.

(1) The rate to collocate a small wireless facility on a Town utility pole shall be \$150 per pole annually, or the maximum amount permitted under applicable law, whichever is greater.

(2) The town may reserve space on Town utility poles for future public safety uses. If replacement of the Town utility pole is necessary to accommodate the collocation of the small wireless facility and the future public safety use, the pole replacement is subject to make-ready provisions and the replaced pole shall accommodate the future public safety use.

(3) For a Town utility pole that supports an aerial facility used to provide communication services or electrical service, the Town and applicant shall comply with the process for make-ready work under 47 U.S.C. s. 224 and implementing regulations. The good faith estimate of the Town for any make-ready work necessary to enable the pole to support the requested collocation will include pole replacement, if necessary.

(4) For a Town utility pole that does not support an aerial facility used to provide communications services or electric service, the authority shall provide a good faith estimate for any make-ready work necessary to enable the pole to support the requested collocation, including necessary pole replacement, within 60 days after receipt of a complete application. Make-ready work, including any pole replacement, shall be completed within 60 days after written acceptance of the good faith estimate by the applicant. Alternatively, the Town may require the applicant seeking to collocate a small wireless facility to provide a make-ready estimate at the applicant's expense for the work necessary to support the small wireless facility, including pole replacement, and perform the make-ready work. If pole replacement is required, the scope of the make-ready estimate is limited to the design, fabrication, and installation of a utility pole that is substantially similar in color and composition.

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(5) The make-ready work specified in subsections (3) and (4) above shall be subject to the Town's usual construction restoration standards for work in the right-of-way. The replaced or altered Town utility pole shall remain the property of the Town.

(i) *Design standards.* The Town's design standards set forth in this article and the applicable codes, ~~including in this article,~~ may be waived by the Town commission upon a showing that the design standards are not reasonably compatible for the particular location of a small wireless facility or that the design standards impose an excessive expense for a small wireless facility. The waiver shall be granted or denied within 45 days after the date of the request.

(j) *Micro Wireless Facilities.* Town approval shall not be required for the installation, placement, maintenance or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles in compliance with applicable codes by or for a communications services provider authorized to occupy the public rights-of-way and who is remitting taxes under chapter 202, Florida Statutes. Notwithstanding the foregoing, the Town may require a right-of-way permit for work that involves excavation, closure of a sidewalk or closure of a vehicular lane.

(k) *Permitting.* An applicant for installation of a small wireless facility shall obtain a right-of-way permit from the Town, except to the extent applicable law prohibits the Town from requiring a permit.

(l) *Airport airspace.* A structure granted a permit and installed pursuant to this section shall comply with chapter 333, Florida Statutes, and federal regulations pertaining to airport airspace protections.

(m) *No application to locations subject to HOA restrictions.* This section does not authorize a person to collocate small wireless facilities or micro wireless facilities on a Town utility pole or erect a wireless support structure in a location subject to covenants, conditions, restrictions, articles of incorporation, and bylaws of a homeowners' association.

(n) *Prohibition against placement in location where facilities are placed underground.* A wireless service provider, including a communications services provider and communications facilities provider, shall, in relation to a small wireless facility, utility pole or wireless support structure in the public rights-of-way, comply with the objective, reasonable, and nondiscriminatory undergrounding requirements of the Town that prohibit above-ground structures in the public rights-of-way, unless:

(1) Structures that remain above ground are reasonably available to wireless providers for the collocation of small wireless facilities and may be replaced by a wireless provider to accommodate the collocation of small wireless facilities; or

(2) A wireless provider may install a new utility pole in the designated area in the right-of-way that otherwise complies with this subsection and it is not reasonably able to

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provide wireless service by collocating on a remaining utility pole or other structure in the right-of-way.

(o) Distance separation between ground-mounted equipment associated with a small wireless facility. Ground-mounted equipment associated with a small wireless facility in the public rights-of-way must be spaced a minimum of three hundred fifty (350) linear feet apart from ground-mounted equipment associated with another small wireless facility.

Sec. 25-~~50~~ 45. - Reservation of rights and remedies.

(a) The Town reserves the right to place and maintain, and permit to be placed or maintained, sewer, gas, water, electric, storm drainage, communications, and other facilities, cables or conduit, and to do, and to permit to be done, any underground and overhead installation or improvement that may be deemed necessary or proper by the Town in public rights-of-way occupied by the registrant. Registrant may allow Town facilities to be collocated within Town's public rights-of-way through the use of a joint trench during registrant's construction project. Such joint trench projects shall be negotiated in good faith by separate agreement between registrant and Town and may be subjected to other Town rights-of-way requirements. The Town further reserves without limitation the right to alter, change, or cause to be changed, the grading, installation, relocation or width of the public rights-of-way within the limits of the Town and within said limits, as may from time to time be altered.

(~~a~~b) The Town reserves the right to amend this article as it shall find necessary in the lawful exercise of its police powers.

(~~b~~c) This article shall be applicable to all communications facilities placed in the public rights-of-way on or after the effective date of this article and shall apply to all existing communications facilities in the public rights-of-way prior to the effective date of this article, to the full extent permitted by State and Federal law.

(~~e~~d) The adoption of this article is not intended to waive any rights or defenses the Town may have under any existing franchise, license or other agreements with a communications services provider.

(~~d~~e) Nothing in this article shall affect the remedies the Town has available under applicable law.

Sec. 25-46. - Compliance with state and federal regulations; preemption.

In implementing this article and the provisions set forth herein, the Town shall comply with applicable state and federal regulations and the provisions of this article shall be given force to the maximum amount and greatest extent permissible under state and federal law.

In the event any provision of this ordinance is specifically preempted, or judicially determined to be preempted by state or federal law, then the preempted provision shall automatically be deemed null and void and the superseding provision of state or federal law shall prevail.

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

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

SECTION 5. Conflicting Ordinances. All prior ordinances or resolutions, or parts thereof, in conflict herewith are hereby repealed to the extent of said conflict.

SECTION 6. Effective Date. This Ordinance shall be in full force and effect immediately upon its passage on second reading.

Passed on the first reading, this ____ day of _____, 2020.

Passed and adopted on the second reading, this ____ day of _____, 2020.

MAYOR CHRIS VINCENT

	First Reading	Second Reading
Mayor Vincent	_____	_____
Vice-Mayor Oldaker	_____	_____
Commissioner Sokolow	_____	_____
Commissioner Strauss	_____	_____
Commissioner Malkoon	_____	_____

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272 ATTEST:

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Tedra Allen, CMC Town Clerk

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280 APPROVED AS TO FORM:

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283 _____
Susan L. Trevarthen, Town Attorney



Town Commission Agenda Item Report

Meeting Date: May 12, 2020

Submitted by: Susan Trevarthen

Submitting Department: Town Attorney

Item Type: Ordinance

Agenda Section: Ordinance

Subject Title: First Reading 2020-06: An Ordinance of the Town Of Lauderdale-By-The-Sea, Florida, Submitting Proposed Charter Amendment To Article VII, "Planning And Zoning," Section 7.1., "Maximum Height For Buildings Established; Referendum Vote Required For Increases In Zoned Residential-District Height Limits" To Preserve the Five-Story Height Of Buildings Located On El Mar Drive Gateway Properties.



Figure 1 – blue highlighted properties represent the “El Mar Drive Gateway Properties”

Explanation: Chapter 166, Florida Statutes, provides a methodology for charter amendments supplementary to and not in conflict with the Charter of the Town of Lauderdale-By-The-Sea (the “Town”). Pursuant to Section 166.031, Florida Statutes, charter amendments may be submitted to a referendum vote by the Town Commission through the adoption of an Ordinance calling for such a referendum election. The Broward County Supervisor of Election previously indicated that the deadline for submission of charter amendment questions was June 8, 2020, in order for charter amendments to appear on the November 3, 2020 ballot. However, Staff was recently informed that the deadline has been extended to July 17, 2020.

At the April 29, 2020 Town Commission meeting, the Town Commission instructed Staff to prepare the attached Ordinance, which preserves the height of five-story non-conforming buildings, located on properties at the north

and south gateways to El Mar Drive at Pine Avenue and Palm Avenue (“El Mar Drive Gateway Properties”) (collectively, the “Charter Amendment”).

The Charter currently permits existing non-conforming buildings to be replaced by new buildings that preserve the non-conforming building height if a site plan is approved and construction proceeds within a short-defined period of time. Multiple owners have attempted to use the Charter process to pursue voluntary redevelopment of the El Mar Drive Gateway Properties and have encountered challenges in meeting the timeframes of the Charter. The properties immediately south and north of the El Mar Drive Gateway Properties are developed with nonconforming 15-story buildings and the El Mar Drive Gateway Properties currently have common ownership on both sides of El Mar Drive. Therefore, the Charter Amendment will ensure appropriate transition of height from the 15-story buildings to the remainder of the El Mar Drive buildings, which largely conform to the Charter heights.

It is important to note that while the proposed Charter Amendment preserves a maximum height of five stories for El Mar Drive Gateway Properties, it does not specify the overall height of each story or the height of the potential five-story building. The Charter Amendment is not self-executing; the Planning And Zoning Board will need to recommend and the Town Commission will need to approve an ordinance amending the Code of Ordinances to allow height in excess of the current RM-25 zoning district three-story height limit before a taller building can be considered for approval.

The proposed Charter Amendment allows that Code Amendment to be approved by the Town Commission without the further voter approval that would otherwise be required by paragraph 7.1(9) of the Charter. In that Code Amendment, the Town has the power to establish additional definitions and standards governing how the five-story height can be developed on the El Mar Drive Gateway Properties.

Alternatively, the proposed Charter Amendment could be revised to include a specific height per story or overall height for five-story buildings. The Town Commission should consider whether it prefers to leave these issues for the future amendment to the Code of Ordinances or to revise the proposed Charter Amendment for second reading to include a specific height limit for five-story buildings.

PROPOSED CHARTER AMENDMENT:

Sec. 7.1. - Maximum height for buildings established; referendum vote required for increases in zoned residential-district height limits.

- (1) No building within the jurisdictional boundaries of the Town, as they existed on March 20, 2006, shall have more than four (4) stories above grade, and the maximum height of buildings within the Town that have four (4) stories above grade shall be forty-four (44) feet above grade, as defined in the Florida Building Code, or above a horizontal plane eighteen inches above the crown of the roadway at the highest point adjoining the property on which the building is located, whichever of those two levels is higher. The maximum height for all other buildings within the Town shall be thirty-three (33) feet
 - (a) Above grade, as defined in the Florida Building Code, or
 - (b) Above a horizontal plane eighteen inches above the crown of the roadway at the highest point adjoining the property on which the building is located, or
 - (c) Above the minimum elevation for a habitable, finished floor permitted under applicable federal or Florida state regulations,

Whichever of those three levels is highest. Height shall be measured from the applicable base level specified above to the highest point on a flat roof, or to the median elevation between the peak of a sloped roof and the lowest edge of the sloped roof. In accordance with the Florida Building Code, bulkheads and penthouses used solely to enclose stairways, tanks, elevator machinery or shafts or ventilation or air conditioning apparatus shall not be included in determining building height; all other roofs structures, including parapet walls, shall not exceed four feet in height above the maximum allowed building height.

Notwithstanding the foregoing, the maximum permissible height for buildings, located on properties at the north and south gateways to El Mar Drive at Pine Avenue and Palm Avenue ("El Mar Drive Gateway Properties"), shall be five stories:

- (a) Above grade, as defined in the Florida Building Code, or
- (b) Above a horizontal plane eighteen inches above the crown if the roadway at the highest point adjoining the property on which the building is located, or
- (c) Above the minimum elevation for a habitable, finished floor permitted under applicable federal or Florida state regulations,

whichever of those three levels is highest. Height shall be measured as specified above.

Changes to the Code of Ordinances to implement the height of the El Mar Gateway Properties shall not be subject to referendum, as mandated in paragraph (9).

* * *

Recommendation: Staff recommends consideration of the proposed Ordinance and seeks guidance from the Town Commission as to whether the maximum overall height for El Mar Drive Gateway Properties should be included in the Charter or Code.

Attachments:

1. Ordinance 2020-06

ORDINANCE NO. 2020-06

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, PROVIDING FOR THE SUBMISSION TO THE ELECTORS OF THE PROPOSED AMENDMENT TO THE TOWN CHARTER, PURSUANT TO SECTION 166.031, FLORIDA STATUTES, SUBMITTING PROPOSED CHARTER AMENDMENT TO ARTICLE VII, "PLANNING AND ZONING," SECTION 7.1., "MAXIMUM HEIGHT FOR BUILDINGS ESTABLISHED; REFERENDUM VOTE REQUIRED FOR INCREASES IN ZONED RESIDENTIAL-DISTRICT HEIGHT LIMITS" TO PRESERVE THE FIVE-STORY HEIGHT OF BUILDINGS ON EL MAR DRIVE GATEWAY PROPERTIES; CALLING A REFERENDUM ON THE PROPOSED CHARTER AMENDMENT TO BE HELD ON TUESDAY, THE 3RD DAY OF NOVEMBER 2020, IN CONJUNCTION WITH THE GENERAL ELECTION BEING HELD ON SAID DATE; PROVIDING FOR VOTING AT THE POLLS; PROVIDING FOR NOTICE OF ELECTION; PROVIDING FOR REQUISITE BALLOT LANGUAGE; PROVIDING FOR INCLUSION IN THE CHARTER, SEVERABILITY AND FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 166, Florida Statutes, provides a methodology for charter amendments supplementary to and not in conflict with the Charter of the Town of Lauderdale-By-The-Sea (the “Town”); and

WHEREAS, pursuant to Section 166.031, Florida Statutes, charter amendments may be submitted to a referendum vote by the Town Commission through the adoption of an Ordinance calling for such a referendum election; and

WHEREAS, the Town Commission desires to amend the Charter to preserve the height of five-story non-conforming buildings, located on properties at the north and south gateways to El Mar Drive at Pine Avenue and Palm Avenue, as legally described in Exhibit “A,” and further identified by Folio Numbers: 4943-18-01-0680, 4943-18-01-0682, 4943-18-01-0700, 4943-18-

01-0600, 4943-18-01-1650, 4943-18-01-0020, and 4943-18-01-0030 (“El Mar Drive Gateway Properties”) (collectively, the “Charter Amendment”); and

WHEREAS, the Charter currently permits existing non-conforming buildings to be replaced by new buildings that preserve the non-conforming building height if a site plan is approved and construction proceeds within a short defined period of time; and

WHEREAS, multiple owners have attempted to use the Charter process to pursue voluntary redevelopment of the El Mar Drive Gateway Properties and have encountered challenges in meeting the timeframes of the Charter; and

WHEREAS, the properties immediately south and north of the El Mar Drive Gateway Properties are developed with nonconforming 15-story buildings and the El Mar Drive Gateway Properties currently have common ownership on both sides of El Mar Drive; and

WHEREAS, the Charter Amendment will ensure appropriate transition of height from the 15-story buildings to the remainder of the El Mar Drive buildings, which largely conform to the Charter heights; and

WHEREAS, the Town Commission has determined that is in the best interest of the citizens of the Town to submit the Charter Amendment herein.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. Each of the above stated recitals is hereby adopted and confirmed.

Section 2. Charter Amendments. Pursuant to Section 2.7 of the Town Charter and Section 166.031, Florida Statutes, and subject to the approval of the electors as described in

Section 8 below, the Town Charter of the Town of Lauderdale-By-The-Sea, Florida, is hereby amended as follows:¹

* * *

ARTICLE VII. – PLANNING AND ZONING

* * *

Sec. 7.1. - Maximum height for buildings established; referendum vote required for increases in zoned residential-district height limits.

(1) No building within the jurisdictional boundaries of the Town, as they existed on March 20, 2006, shall have more than four (4) stories above grade, and the maximum height of buildings within the Town that have four (4) stories above grade shall be forty-four (44) feet above grade, as defined in the Florida Building Code, or above a horizontal plane eighteen inches above the crown of the roadway at the highest point adjoining the property on which the building is located, whichever of those two levels is higher. The maximum height for all other buildings within the Town shall be thirty-three (33) feet

(a) Above grade, as defined in the Florida Building Code, or

(b) Above a horizontal plane eighteen inches above the crown if the roadway at the highest point adjoining the property on which the building is located, or

(c) Above the minimum elevation for a habitable, finished floor permitted under applicable federal or Florida state regulations,

Whichever of those three levels is highest. Height shall be measured from the applicable base level specified above to the highest point on a flat roof, or to the median elevation between the peak of a sloped roof and the lowest edge of the sloped roof. In accordance with the Florida Building Code, bulkheads and penthouses used solely to enclose stairways, tanks, elevator machinery or shafts or ventilation or air conditioning apparatus shall not be included in determining building height; all other roofs structures, including parapet walls, shall not exceed four feet in height above the maximum allowed building height.

Notwithstanding the foregoing, the maximum permissible height for buildings, located on properties at the north and south gateways to El Mar Drive at Pine Avenue and Palm Avenue (“El Mar Drive Gateway Properties”), shall be five stories:

(a) Above grade, as defined in the Florida Building Code, or

(b) Above a horizontal plane eighteen inches above the crown if the roadway at the highest point adjoining the property on which the building is located, or

¹ Proposed additions to existing Town Charter text are indicated by underline; proposed deletions from existing Town Charter text are indicated by ~~striketrough~~.

(c) Above the minimum elevation for a habitable, finished floor permitted under applicable federal or Florida state regulations,
whichever of those three levels is highest. Height shall be measured as specified above.
Changes to the Code of Ordinances to implement the height of the El Mar Gateway Properties shall not be subject to referendum, as mandated in paragraph (9).

* * *

Section 3. Election Called. An election is hereby called for Tuesday, November 3, 2020, in conjunction with the general election being held on said date, to present to the qualified electors of the Town of Lauderdale-By-The-Sea (the “Town”), the ballot question provided in Section 4 of this Ordinance.

Section 4. Form of Ballot. The form of ballot for the Charter Amendment provided for in Section 2 of this Ordinance shall be substantially as follows:

PRESERVE THE HEIGHT OF BUILDINGS LOCATED ON EL
MAR DRIVE GATEWAY PROPERTIES

Currently, the Charter permits existing non-conforming buildings to be replaced by a new building that preserves the non-conforming building height only after certain conditions are met.

Shall the Charter be amended to permit buildings, located on properties at the north and south gateways to El Mar Drive at Pine Avenue and Palm Avenue (“El Mar Drive Gateway Properties”), to be five stories, without pre-conditions, measured in the manner currently prescribed in the Charter?

YES []

NO []

Section 5. Vote at Polls. Balloting shall be conducted between the hours of 7 A.M. and 7 P.M. on the date of the election, and early and absentee balloting shall also be permitted as provided in conjunction with the general election. Polling places shall be those polling places

provided for the general election for the electors of the Town, pursuant to applicable laws. All qualified Town electors who are timely registered in accordance with law shall be entitled to vote. The Town Clerk is authorized to obtain any necessary election administration services from the Broward County Supervisor of Elections. The County registration books shall remain open at the Office of the Broward County Supervisor of Elections office until the date at which date the registration books shall close in accordance with the provisions of the general election laws. The Town Clerk and the Broward County Supervisor of Elections are hereby each authorized to take all appropriate action necessary to carry into effect and accomplish the electoral provisions of this Ordinance. This Charter Amendment election shall be canvassed by the County Canvassing Board unless otherwise provided by law.

Section 6. Notice of Election. Notice of said election shall be published in accordance with Section 100.342, Fla. Stat., in a newspaper of general circulation within the Town at least 30 days prior to said election, the first publication to be in the fifth week prior to the election, and the second publication to be in the third week prior to the election, and shall be in substantially the following form:

“NOTICE OF SPECIAL ELECTION

PRESERVE THE HEIGHT OF BUILDINGS LOCATED ON EL
MAR DRIVE GATEWAY PROPERTIES

Currently, the Charter permits existing non-conforming buildings to be replaced by a new building that preserves the non-conforming building height only after certain conditions are met.

Shall the Charter be amended to permit buildings, located on properties at the north and south gateways to El Mar Drive at Pine Avenue and Palm Avenue (“El Mar Drive Gateway Properties”), to be five stories, without pre-conditions, measured in the manner currently prescribed in the Charter?

157 YES []

158
159 NO []

160
161 **Polling place information, the enabling Ordinance including the full text of**
162 **the proposed Town Charter Amendments and the ballot questions, are**
163 **available at the office of the Town Clerk, located at 4501 Ocean Drive,**
164 **Lauderdale-By-The-Sea, Florida 33308.**
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167 _____”
168 **Town Clerk**
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170 **Section 7. Copies.** Copies of this Ordinance proposing the Charter Amendment are on
171 file at the offices of the Town Clerk located at 4501 Ocean Drive, Lauderdale-By-The-Sea,
172 Florida 33308, and are available for public inspection during regular business hours.

173 **Section 8. Effectiveness.** The Charter Amendment provided for in Section 2 of this
174 Ordinance shall become effective if the majority of the qualified electors voting on that specific
175 Charter Amendment, as described in the ballot summaries of Section 4 of this Ordinance, vote
176 for its adoption. Each Charter Amendment shall be considered adopted and effective upon
177 certification of the election results. Following adoption of the Charter Amendment(s), the Town
178 Clerk shall incorporate the adopted Charter Amendment(s) into the Town Charter and shall file
179 the revised Town Charter with the Office of the Secretary of State as required by Section
180 166.031, Florida Statutes.

181 **Section 9. Inclusion in the Town Charter.** Subject to the requirements of Section 8
182 above, it is the intention of the Town Commission and it is hereby provided that the Charter
183 Amendments shall become and be made a part of the Charter of the Town of Lauderdale-By-
184 The-Sea, Florida, and that the Sections of this Ordinance may be renumbered or relettered to
185 accomplish such intention.

Section 10. Severability.

The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not effect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 11. Effective Date of Ordinance.

This Ordinance shall become effective immediately upon adoption hereof on second reading.

PASSED AND ADOPTED on First Reading this ____ day of _____, 2020.

PASSED AND FINALLY ADOPTED on Second Reading this ____ day of _____, 2020.

MAYOR CHRIS VINCENT

	First Reading	Second Reading
Mayor Vincent	_____	_____
Vice-Mayor Oldaker	_____	_____
Commissioner Sokolow	_____	_____
Commissioner Strauss	_____	_____
Commissioner Malkoon	_____	_____

ATTEST:

Tedra Allen CMC, Town Clerk

221 Approved as to form:

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Susan L. Trevarthen, Town Attorney

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266 **Exhibit A**

267 **EL Mar Drive Gateway Properties**

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270 Plunge Hotel

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272 4660 N Ocean Drive and 4640-4644 EL Mar Drive

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276 FOLIO NUMBER(S): 4943 18 01 0680
277 4943 18 01 0682
278 4943 18 01 0700
279 4943 18 01 0600

280
281 LEGAL DESCRIPTION: Lots 9-24 of Block 10 of Lauderdale by the Sea, together
282 with Lots 11 – 17 of Block 9 according to plat thereof, as
283 recorded in plat Book 6 Page 2, of the public records of
284 BROWARD COUNTY, FLORIDA

285
286 Holiday Inn

287
288 4116 N Ocean Drive

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290
291 FOLIO NUMBER: 4943 18 01 1650

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293 LEGAL DESCRIPTION: Lots 1-5, Less PT DESC IN PAR 103 Of CA 86-20486,
294 together with Lots 6, 7, 8 and 17 – 24 of Block 17 of
295 Lauderdale by the Sea, according to plat thereof, as
296 recorded in plat Book 6 Page 2, of the public records of
297 BROWARD COUNTY, FLORIDA

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301 Villa Caprice

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303 FOLIO NUMBER(s): 4943 18 01 0020
304 4943 18 01 0030

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307 LEGAL DESCRIPTION: Lots 1-6 of Block 2 of Lauderdale by the Sea, according to
308 plat thereof, as recorded in plat Book 6 Page 2, of the
309 public records of BROWARD COUNTY, FLORIDA