

ORDINANCE NO. 2013-05

AN ORDINANCE OF THE CITY OF ST. PETE BEACH, FLORIDA, AMENDING DIVISION 6 OF THE LAND DEVELOPMENT CODE TO ADD REGULATIONS AND CONDITIONS FOR THE OUTDOOR DISPLAY OF MERCHANDISE AND TO ADD REGULATIONS FOR TEMPORARY CONSTRUCTION FENCING; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH, TO THE EXTENT OF SUCH CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, The City regulates accessory uses and structures and temporary uses in Division 6 of the Land Development Code; and

WHEREAS, the City Commission finds it in the best interest of the City to promote aesthetic qualities of the City via regulating fencing and outdoor display of merchandise; and

WHEREAS, the City's Planning Board, acting as the City's local planning agency, has reviewed this ordinance amending Division 6 and found it to be consistent with the City's adopted comprehensive plan and has recommended approval thereof; and

WHEREAS, the City Commission has found this ordinance to be consistent with the City's adopted comprehensive plan; and

WHEREAS, the City Commission has found this ordinance to be in the best interest of the health, safety and welfare of the citizens of the city; and

WHEREAS, notice of this ordinance has been provided in accordance with applicable law.

NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF ST. PETE BEACH, FLORIDA HEREBY ORDAINS:

Section 1. Division 6 of the City of St. Pete Beach, Florida Land Development Code is hereby amended as illustrated in "Exhibit A".

Section 2. All ordinances or parts of ordinances, in conflict herewith are hereby repealed to the extent of any conflict with this Ordinance.

Section 3. If any portion or part of this Ordinance is declared invalid by a court of competent jurisdiction, the valid remainder hereof shall remain in full force and effect.

Section 4. This Ordinance shall become effective immediately upon adoption.



STEVE MCFARLIN, MAYOR

LPA PUBLIC HEARING: 11/20/2012

PUBLISHED: 11/11/2012

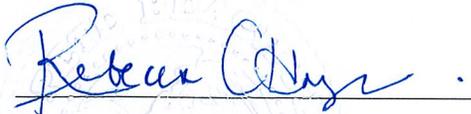
FIRST READING: 1/8/2013

PUBLISHED: 12/23/2012

SECOND READING/ADOPTION HEARING: 1/22/2013

PUBLISHED: 1/12/2013

I, Rebecca Haynes, City Clerk of the City of St. Pete Beach, Florida, do hereby certify that the foregoing Ordinance was duly adopted in accordance with the provisions of applicable law this 22nd day of January, 2013



Rebecca Haynes, City Clerk

“Exhibit A”

Sec. 6.9. - ~~Sidewalk sales and display~~. Outdoor sales or outdoor display of merchandise.

(A) Outdoor Sidewalk~~sales or and outdoor display of merchandise within the public right of way~~ shall be permitted only under the temporary use permit procedure outlined in Section 6.11 herein. Events that are sponsored by the City and/or held within City parks or on City-owned property other than within the right of way are exempt from these requirements. In addition to any special provisions set forth in the permitting process, the following regulations, except where in conflict with the conditions of the permit, shall apply to outdoor sidewalk~~sales or and outdoor display of merchandise within the public right of way~~:
way:

- (1a) Permits for outdoor sidewalk~~sales and/or display of merchandise~~ shall be issued to an individual business or a group of businesses for a maximum of 3 consecutive days, on one property only two times, for a maximum of three consecutive days for each permit, in any one calendar year.
- (2b) Outdoor storage is specifically prohibited in connection with any outdoor sidewalk sale and/or display of merchandise. Merchandise must be removed from the public right of way between the hours of 10 p.m. and 7 a.m.
- (3e) Outdoor Sidewalk~~sales and/or outdoor display of merchandise~~ shall be clearly related to the principal use of the site and shall be wholly conducted upon the site.
- (4d) Outdoor Sidewalk~~sales or and outdoor display of merchandise~~ shall not be allowed at any time the principal permitted use of the site is not open for business and shall not be allowed between the hours of 10:00 p.m. and 7:00 a.m.
- (e) ~~All sidewalk sales and display that will require the use of a public right-of-way shall require city commission approval prior to the issuance of a temporary use permit.~~
- (5) A minimum of one unobstructed pedestrian path at least five feet wide shall be maintained, parallel to the abutting building(s) at all times;
- (6) Unobstructed passage shall be provided to building entrances including at least a two-foot clearance on each side of any entrance, fire hydrants, or other street fixtures located within the display area;
- (7) Furniture and equipment shall neither be permanently anchored to the sidewalk in the right-of-way nor shall they be attached or affixed to any tree, post, sign or other structure in any way;
- (8) Access for a fire rescue vehicle and equipment shall be maintained in accordance with Section 98-26 of the City’s Code of Ordinances;
- (9) The owner or operator shall acquire and keep in full force and effect, at its own expense, the insurance in the following amounts and types:

- (a) Commercial general liability in the amount of \$1,000,000.00 per occurrence for bodily injury and property damage. The City must be named as an additional insured on this policy and an endorsement must be issued as part of the policy evidencing compliance with this requirement.
 - (b) Workers' compensation and employers' liability as required by the State of Florida.
 - (c) The City shall receive at least 30 days written notice prior to any cancellation, non-renewal or material change in the coverage provided.
 - (d) Any person operating a sidewalk sale shall provide to the City an original certificate of insurance as evidence that the above requirements have been met prior to the initiation of the merchandise display.
- (10) Failure to comply with all the requirements in this section shall cause a suspension or revocation of the temporary use permit.

(B) Outdoor display of merchandise on private property shall be regulated as follows:

- (1) Outdoor display of merchandise shall be a permitted accessory use to a retail business in non-residential and mixed-use zoning districts. Outdoor display of merchandise is not permitted for any non-conforming use within any residential zoning district.
- (2) A minimum of one unobstructed pedestrian path at least five feet wide shall be maintained, parallel to the abutting building(s) at all times;
- (3) Unobstructed passage shall be provided to building entrances including at least a two-foot clearance on each side of any entrance, fire hydrants, etc.
- (4) Access for a fire rescue vehicle and equipment shall be maintained in accordance with Section 98-26 of the City's Code of Ordinances;
- (5) The merchandise displayed shall be related to the principal use of the property.
- (6) Outdoor display of merchandise is prohibited at any time the establishment is not open for business and is prohibited between the hours of 10:00 p.m. and 7:00 a.m.
- (7) No merchandise display shall obstruct pedestrian or vehicular traffic or located within in a visibility triangle.

Sec. 6.15. - Fences and walls.

Fences and walls are permitted, provided fences and walls shall not exceed four feet in height in required front yards and eight feet in height elsewhere; provided, however, fences and walls in waterfront yards shall not exceed four feet in height. See also Section 6.21 for visibility requirements at street intersections.

- (a) The height of a fence or a wall shall be determined from grade to the average top elevation of the fence or wall. Landscape berms, in conjunction with fences, shall be included in height determinations.
- (b) No fence shall impede or divert the flow of water through any drainage way without the approval of the city.
- (c) In general, the design of fences shall be in keeping with neighborhood appearance. Fences shall be constructed of commonly used materials such as chain link, masonry, vinyl-, wrought iron, or wood. All fences except chain-link fences shall have upper and lower rails between posts. A chain-link fence shall have a top rail. Such materials as corrugated or sheet metal or any scrap or offensive material shall not be permitted. In addition, fences shall not contain any substance such as broken glass, spikes, barbs, nails, electronically charged wiring or similar materials designed to inflict pain or injury to any person or animal.
- (d) Temporary fencing during construction is permitted and regulated in Section 98 of the Code of Ordinances. Once a building permit is closed or becomes inactive, the temporary construction fencing shall be removed. The parcel may remain without a fence or a permanent fence can be erected pursuant to this section.