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COMMISSION MEETING CITY OF ST. PETE BEACH

155 Corey Avenue
St. Pete Beach, FL 33706

Tuesday, September 13, 2016
6:00 PM

Call to Order
Pledge of Allegiance
Invocation
Roll Call

REGULAR MEETING

1. **Presentations** - Presentations shall be limited to 5 minutes for non-city government related items.
2. **Changes to the Agenda** - Any agenda items to be added, moved, or deleted will be addressed at this time. Added items will be assigned agenda item numbers and moved items should remain with the same item numbers. Notation will be made that those items will be taken out of order. Consent items may be removed for discussion, changes, and/or anticipation of a non-unanimous vote and considered separately on the request of anyone on the Commission or by a majority vote of the City Commission upon request of an audience member.
3. **Audience Comments** - Comments shall be limited to 3 minutes per person to issues not on the agenda, 21 minutes in total.
4. **Consent**
 - a. **Approval of minutes from the following City Commission meetings: August 9, 2016; August 23, 2016; and August 29, 2016.**
 - b. **Authorization for the City Manager to enter an agreement with Public Risk Management of Florida for renewal of the City insurance policies covering the period from 10/01/2016 to 09/30/2017 in the amount of \$553,319.00.**

5. Action Items

- a. Approval to Initiate Professional Malpractice Law Suit against the Law Firm of Bryant Miller and Olive.**
- b. Initiate Foreclosure Law Suit against property located at 3941 Moody Street.**

6. Ordinances

- a. Ordinance 2016-14, Final Reading and Public Hearing, an ordinance of the City of St. Pete Beach, Florida providing for a supplemental appropriation to the General Fund for the fiscal year ending September 30, 2016, providing for funding, providing for an effective date.**
- b. Ordinance 2016-15, First Reading and Public Hearing amending the Land Development Code regarding accessory structures for commercial uses. (Beach Concession Huts)**
- c. Ordinance 2016-08, First Reading and Public Hearing amending the Land Development Code regarding accessory structures for commercial uses. (Portable Toilets)**
- d. Ordinance 2016-13, First Reading and Public Hearing amending Chapter 82 of the Code of Ordinances regarding traffic and vehicles.**
- e. Ordinance 2016-20, First Reading and Public Hearing repealing Ordinance 1988-36 of the Code of Ordinances.**

7. Resolutions

- a. Resolution No. 2016-13 approving the form of Economic Development Transportation Project Fund Agreement; authorizing the execution and delivery of the funding agreement by the City Manager providing ownership, operation, and maintenance for the upcoming Blind Pass Road Redesign project.**

8. Items for Discussion

- a. Architectural Standards**

9. Audience Comments 2 - Comments shall be limited to 3 minutes per person to issues not on the agenda, 21 minutes in total.

10. City Clerk, City Manager, City Attorney and City Commission Reports

11. Adjournment

APPEAL: If a person decides to appeal any decision made at this meeting, he/she will need a record of the proceeding and, for such purpose, will need to ensure that a verbatim recording of the meeting is made that includes the testimony and evidence on which to base the appeal. (Florida Statute 286.0105) The City does not furnish verbatim transcripts. Interested parties should make the necessary arrangements for verbatim transcripts.

AMERICANS WITH DISABILITIES ACT: In accordance with the Americans with Disabilities Act and Florida Statutes, Chapter 286.26, persons needing special accommodations to participate in a meeting should contact City Hall at (727) 367-2735 no later than four (4) days prior to the meeting for assistance.

**The public is cordially invited to attend this meeting.
All agenda material is available for review at City Hall.**

CITY COMMISSION MEETING

MINUTES

AUGUST 9, 2016

6:00 P.M.

CALL TO ORDER

Mayor Schechner called the meeting to order at 6:00 p.m.

PLEDGE OF ALLEGIANCE

INVOCATION

PRESENT:

Deborah Schechner, Mayor
Rick Falkenstein, Vice Mayor
Terri Finnerty, Commissioner
Ward Friszolowski, Commissioner
Melinda Pletcher, Commissioner

ALSO PRESENT:

Wayne Saunders, City Manager
Andrew Dickman, City Attorney
Rebecca C. Haynes, City Clerk
Jennifer Bryla, Community Development Director
Elaine Edmunds, Administrative Services Director
Jennifer McMahon, Recreation Director

1. Presentations

A. Introduction of Interim Library Administrator, Betcinda Kettells

Elaine Edmunds, Administrative Services Director, introduced the recently appointed interim Library Administrator, Betcinda Kettells.

2. Changes to the Agenda

Wayne Saunders, City Manager, requested to remove Item 6(a) from the agenda.

Andrew Dickman, City Attorney, requested to remove Item 5(a) from the agenda.

3. Audience Comments

Bill Pyle, Sunset Way, spoke in opposition to Items 5(a) and 6(a).

John Michael, Bay Street, spoke about the reclaimed water line on Bay Street and removal of the crosswalk on Gulf Boulevard in front of the 7-11 store.

Jim Anderson, 41st Avenue, spoke about pump stations and flooding.

4. Consent

- a. Authorize the City Manager to sign a contract with Loews Don Cesar for the 60th Anniversary Brunch on July 9, 2017.

Mr. Saunders introduced Consent Item 4(a) and recommended approval.

Commissioner Pletcher moved to approve Item 4(a) as presented. The motion was seconded by Commissioner Finnerty.

Hearing no audience comments, Mayor Schechner called for the vote.

The motion was unanimously approved by an individual roll call vote.

5. Action Items

- a. ~~Approval to transmit CPA 02-16 to the Department of Economic Opportunity and required reviewing agencies. An amendment to modify certain development criteria in the Boutique Hotel / Condo District~~

Item 5(a) was removed from the agenda.

- b. Appointments to Advisory Boards and Committees

Commissioner Finnerty stated that she has appointed Mr. Harold Hale as her representative on the Finance & Budget Advisory Committee.

Mayor Schechner stated that she has appointed Ms. Linda Chaney as her representative on the Planning Board and will further retain the current members serving on the remaining advisory boards.

Commissioner Pletcher stated that she will appoint Ms. Tiffany Secka as her representative on the Planning Board.

- c. Appointments to Organizations

It was the consensus of the Commission to select Mayor Schechner to serve as the City's representative on the Big C and Mayors' Council organizational boards.

6. Ordinances

- a. ~~Ordinance 2016-05, First Reading and Public Hearing amending the Boutique Hotel/Condo District of the Land Development Code~~

Item 6(a) was removed from the agenda.

7. Resolutions

There were no resolutions presented.

8. Items for Discussion

Commissioner Friszolowski requested a staff update on funding for Library improvements.

Mayor Schechner requested a future discussion in regard to providing sand and/or sandbags for residents to use during storms.

9. Audience Comments 2

There were no additional audience comments.

10. City Clerk, City Manager, City Attorney and City Commission Reports

City Clerk Haynes reported on the following items:

- Public Records and Sunshine Law training
- August 30, 2016, Primary Election poll location change for Precinct 402 to from the Warren Webster Community Center to the Pass-A-Grille Beach Community Church, 107 16th Avenue, St. Pete Beach, FL

City Manager Saunders reported on the following items:

- The Capacity Analysis is completed and a resolution with a policy statement is forthcoming; digital copies will be available soon
- Future Commission meetings are as follows (changes due to budget & holidays):
 - o 09/06/2016 at 6:00 p.m.: Special Meeting/Budget ordinance
 - o 09/13/2016 at 6:00 p.m.: Regular Meeting
 - o 09/20/2016 at 6:00 p.m.: Regular Meeting/Budget ordinance
 - o 11/01/2016 at 6:00 p.m.: Regular Meeting
 - o 11/15/2016 at 6:00 p.m.: Regular Meeting
 - o 12/12/2016 at 6:00 p.m.: Regular Meeting
 - o 12/13/2016 at 6:00 p.m.: Regular Meeting

- Pass-A-Grille Way reconstruction project community meetings will be held at the Don Vista Cultural Arts Center until construction is completed at the Warren Webster Community Center
- Duke Energy easement for the St. Pete Yacht Club has been granted

City Attorney Dickman reported on the following item:

- Update on the Chmielewski lawsuit

Commissioner Finnerty reported on the following items:

- FDOT crosswalks on Gulf Boulevard
- CABA lighting
- Mastery's Brewery will have a soft opening soon
- Suncoast League of Cities meeting in regard to planning for future transportation

Vice Mayor Falkenstein reported on the following items:

- St. Pete Beach signage on I-275
- Turtle nest volunteers have counted 92 nests, 22 have hatched
- School is back in session – remain alert when driving
- Beach raking will resume when the equipment is repaired
- Submit items to SPBConnect
- Clogged storm drains

Commissioner Pletcher reported on the following items:

- Potholes along Pass-A-Grille Way
- Vina del Mar playground equipment
- Form-Based Code community meeting will be held Wednesday, August 10th, at 4:00 p.m. at the Don Vista Center
- Flood insurance programs
- Monitor indoor water use during heavy storms

Commissioner Friszolowski reported on the following item:

- Florida League of Cities Annual Conference

Mayor Schechner reported on the following items:

- Flooding
- Board of County Commissioners meeting on August 22nd at the Gulfport Theatre

11. Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 7:10 p.m.

Attest:

Rebecca C. Haynes, City Clerk

Deborah Schechner, Mayor

Minutes approved on: _____

CITY COMMISSION MEETING

MINUTES

AUGUST 23, 2016

6:00 P.M.

CALL TO ORDER

Mayor Schechner called the meeting to order at 6:00 p.m.

PLEDGE OF ALLEGIANCE

INVOCATION

PRESENT:

Deborah Schechner, Mayor
Rick Falkenstein, Vice Mayor
Terri Finnerty, Commissioner
Ward Friszolowski, Commissioner
Melinda Pletcher, Commissioner

ALSO PRESENT:

Wayne Saunders, City Manager
Andrew Dickman, City Attorney
Rebecca C. Haynes, City Clerk
Jennifer Bryla, Community Development Director
Mike Clarke, Public Services Director
Elaine Edmunds, Administrative Services Director
Jennifer McMahon, Recreation Director

1. Presentations

There were no presentations.

2. Changes to the Agenda

City Manager Saunders requested to continue Items 5 (c), (d), (e), (f) and (g) to date certain of September 20, 2016.

Commissioner Friszolowski requested to pull Item 4(e) to discuss and act upon separately from the Consent Agenda.

3. **Audience Comments**

Bill Pyle, Sunset Way, discussed beach conditions including holes and standing water.

4. **Consent**

- a. Approval of minutes from the following City Commission Meetings: June 14, 2016 Regular; June 28, 2016 Regular; June 29, 2016 Executive; July 7, 2016 Special; July 12, 2016 Regular; July 26, 2016 Special and Regular.
- b. City Commission Meeting Calendar – 2016.
- c. Authorization to hang banners over 75th Avenue at Boca Ciega Drive for the October Concert Series held each Friday in October 2016.
- d. Authorization to hang banners over 75th Avenue at Boca Ciega Drive for Corey Sunday Market opening weekend on October 2, 2016.
- e. *Authorization for the City Manager to enter into an Interlocal Agreement with the Pinellas County Sheriff's Office to provide law enforcement services to the City of St. Pete Beach from October 1, 2016 thru September 30, 2017 in the amount of \$2,271,461.53. – **pulled from the Consent Agenda***
- f. Authorize the City Manager to enter into a one-year agreement for Fiscal Year 2016-2017 with PSTA for trolley and DART Services.
- g. Authorize the City Manager to sign a scope and fee proposal from Michael Baker Jr., Inc. in the amount of \$12,245 to provide additional engineering services for the Blind Pass Road Reconstruction Project.
- h. Authorize the City Manager to approve a change order to the purchase agreement with Nelson Construction for the Pass-A-Grille Way Reconstruction Project in the amount of \$7,123.73 for Change Order 9.

Commissioner Friszolowski requested the June 14, 2016 minutes be amended as follows: Page seven, Item 8, "sewer" be changed to "storm."

Commissioner Finnerty moved to approve the Consent Agenda as amended. The motion was seconded by Vice Mayor Falkenstein.

Hearing no audience comments, Mayor Schechner called for the vote.

The motion was unanimously approved by an individual roll call vote.

- e. Authorization for the City Manager to enter into an Interlocal Agreement with the Pinellas County Sheriff's Office to provide law enforcement services to the City of St. Pete Beach from October 1, 2016 thru September 30, 2017 in the amount of \$2,271,461.53.

City Manager Saunders stated the contract includes a 3.17% cost increase, a reduction in personnel costs due to the removal of the code enforcement officer staffing and an increase in the crossing guard staffing.

Elaine Edmunds, Administrative Services Director, noted that the amount budgeted was greater than the actual contract to allow for extra services such as additional patrol during peak times.

It was the consensus of the Commission to request a 180-day termination clause.

Commissioner Friszolowski moved to approve Item 4(e), to authorize the City Manager to enter into an Interlocal Agreement with the Pinellas County Sheriff's Office to provide law enforcement services to the City of St. Pete Beach from October 1, 2016 through September 30, 2017, in the amount of \$2,271,461.53, as amended with the termination clause changed to 180 days. The motion was seconded by Vice Mayor Falkenstein.

Hearing no audience comments, Mayor Schechner called for the vote.

The motion was unanimously approved by an individual roll call vote.

5. Action Items

- a. Authorize the City Manager to enter into a Purchasing Agreement with Heyward Incorporated for \$24,750 to retrofit the existing odor control system at Wastewater Pump Station No. 2.

The proposed system will better process and control the odor emitting from the pump station.

Commissioner Pletcher moved to approve Item 5(a), to authorize the City Manager to enter into a purchasing agreement with Heyward Incorporated for \$24,750 to retrofit the existing odor control system at Wastewater Pump Station No. 2. The motion was seconded by Vice Mayor Falkenstein.

Hearing no audience comments, Mayor Schechner called for the vote.

The motion was unanimously approved by an individual roll call vote.

- b. Authorize the City Manager to execute a change order to the existing agreement with Wharton-Smith, Inc. for \$22,915.46 to modify the type of odor control system to be installed at Wastewater Pump Station No. 3.

Commissioner Finnerty moved to approve Item 5(b), to authorize the City Manager to execute a change order to the existing agreement with Wharton-Smith, Inc., for \$22,915.46 to modify the type of odor control system to be installed at Wastewater Pump Station No. 3. The motion was seconded by Commissioner Friszolowski.

Hearing no audience comments, Mayor Schechner called for the vote.

The motion was unanimously approved by an individual roll call vote.

- c. Conditional Use 2016-0031, authorization for a Tiki hut on the west side sand beach of the Tradewinds Island Grande, 5600 Gulf Boulevard

Commissioner Pletcher moved to continue Item 5(c) to date certain of September 20, 2016. The motion was seconded by Commissioner Friszolowski.

Hearing no audience comments, Mayor Schechner called for the vote.

The motion was unanimously approved by an individual roll call vote.

- d. Conditional Use 2016-0032, authorization for a Tiki hut on the west side sand beach of the Tradewinds Island Grande, 5600 Gulf Boulevard

Vice Mayor Falkenstein moved to continue Item 5(d) to date certain of September 20, 2016. The motion was seconded by Commissioner Friszolowski.

Hearing no audience comments, Mayor Schechner called for the vote.

The motion was unanimously approved by an individual roll call vote.

- e. Conditional Use 2016-0033, authorization for a Tiki hut on the west side sand beach of the Tradewinds Island Grande, 5600 Gulf Boulevard.

Commissioner Friszolowski moved to continue Item 5(e) to date certain of September 20, 2016. The motion was seconded by Commissioner Pletcher.

Hearing no audience comments, Mayor Schechner called for the vote.

The motion was unanimously approved by an individual roll call vote.

- f. Conditional use approval for Case No. 2016-0034, an existing Tiki hut with a variance to the maximum size of the hut and type of activity allowed in the hut and variances associated with the hut on the beach adjacent to the Coral Reef at 5800 Gulf Boulevard

Commissioner Finnerty moved to continue Item 5(f) to date certain of September 20, 2016. The motion was seconded by Vice Mayor Falkenstein.

Hearing no audience comments, Mayor Schechner called for the vote.

The motion was unanimously approved by an individual roll call vote.

- g. Conditional use approval for Case No. 2016-0035, an existing Tiki hut with a variance to the maximum size of the hut and type of activity allowed in the hut and variances associated with the hut, on the beach adjacent to the Coral Reef at 5800 Gulf Boulevard.

Vice Mayor Falkenstein moved to continue Item 5(g) to date certain of September 20, 2016. The motion was seconded by Commissioner Finnerty.

Hearing no audience comments, Mayor Schechner called for the vote.

The motion was unanimously approved by an individual roll call vote.

6. Ordinances

- a. Ordinance 2016-14, an ordinance of the City of St. Pete Beach, Florida providing for a supplemental appropriation to the general fund for fiscal year ending September 30, 2016; providing for funding; providing for an effective date.

Ms. Edmunds reviewed the supplemental appropriation and revenue to the General Fund in the amount of \$106,832 encompassing the City Attorney, Community Development Department, Fire Department and Recreation Department budgets.

Commissioner Friszolowski moved to approve Item 6(a), to approve Ordinance 2016-14, upon first reading, an ordinance of the City of St. Pete Beach, Florida, providing for a supplemental appropriation to the General Fund for Fiscal Year ending September 30, 2016; providing for funding; providing for an effective date. The motion was seconded by Commissioner Finnerty.

Hearing no audience comments, Mayor Schechner called for the vote.

The motion was unanimously approved by an individual roll call vote.

7. Resolutions

There were no resolutions presented.

8. Items for Discussion

City Attorney Dickman reviewed the difficulties associated with short-term rentals and stated that nuisance matters are being routed through the Special Magistrate/Code Enforcement hearings.

9. Audience Comments

There were no audience comments.

10. City Clerk, City Manager, City Attorney and City Commission Reports

City Clerk Haynes reported on the following item:

- An electronic sign will be displayed for the Primary Election to be held Tuesday, August 30, 2016, noting the change in polling sites from Warren Webster Community Center to the Pass-A-Grille Community Church

City Manager reported on the following items:

- Interim Code Enforcement Officer has been retained
- Met with Senator Brandes in regard to sewer funding through the legislative appropriations process

City Attorney reported on the following issue:

- Provided an update on the Chmielewski case

Commissioner Finnerty reported on the following issue:

- Mastery's Brewery had a soft opening

Vice Mayor Falkenstein reported on the following issues:

- Florida League of Cities Conference
- Early voting for the Primary Election
- Retention ponds and mosquito breeding grounds

Commissioner Pletcher reported on the following issue:

- Vina Del Mar tree removal and replacement

Commissioner Friszolowski reported on the following issues:

- Florida League of Cities Conference
- The Primary Election
- The Belle Vista neighborhood association will meet again in October

Mayor Schechner reported on the following issues:

- Florida League of Cities Conference
- Neighborhood home will be on HGTV Show

11. Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 7:40 p.m.

Attest:

Rebecca C. Haynes, City Clerk

Deborah Schechner, Mayor

Minutes approved on: _____

CITY COMMISSION SPECIAL MEETING

EXECUTIVE SESSION

MINUTES

AUGUST 29, 2016

9:00 A.M.

CALL TO ORDER

Mayor Schechner called the meeting to order at 9:08 a.m.

PLEDGE OF ALLEGIANCE

INVOCATION

PRESENT:

Deborah Schechner, Mayor
Rick Falkenstein, Vice Mayor
Terri Finnerty, Commissioner
Ward Friszolowski, Commissioner
Melinda Pletcher, Commissioner

ALSO PRESENT:

Wayne Saunders, City Manager
Andrew Dickman, City Attorney
Rebecca C. Haynes, City Clerk

1. Announcement of Litigation

- A. Paul Chmielewski as Personal Representative of the Estate of Chester Chmielewski and Katherine A. Chmielewski; Case NO. 8:13-cv-03170-JDW-MAP

Mayor Schechner announced the commencement of an attorney-client executive session.

2. Adjourn to Executive Session

Mayor Schechner adjourned the meeting to an attorney-client session at 9:09 a.m.

3. Reconvene to Public Session

Mayor Schechner reconvened the meeting to a public session at 9:45 a.m.

4. Discussion and Possible Action

- A. Authorize the City Manager to sign an affidavit to accompany a motion to waive an appellate bond; or in the alternative,
- B. Authorize the City Manager to secure an appellate bond from a commercial bonding agency.

Commissioner Friszolowski moved to authorize the City Manager to sign an affidavit to accompany a motion to waive an appellate bond or, in the alternative, authorize the City Manager to secure an appellate bond from a commercial bonding agency. The motion was seconded by Vice Mayor Falkenstein.

Hearing no audience comments, Mayor Schechner called for the vote.

The motion was unanimously approved by an individual roll call vote.

5. Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 9:55 a.m.

Attest:

Rebecca C. Haynes, City Clerk

Deborah Schechner, Mayor

Minutes approved on: _____

**St. Pete Beach City Commission
Agenda Report**

Issue Considered: Authorization for the City Manager to enter an agreement with Public Risk Management of Florida for renewal of the City insurance policies covering the period from 10/01/2016 to 09/30/2017 in the amount of \$553,319.00.

Date: September 13, 2016

Prepared By: Dan O'Connor, Administrative Services Supervisor

Through: Elaine Edmunds, Administrative Services Director

Summary of Issue: This is an annual request for authorization to enter into an agreement with Public Risk Management of Florida for renewal of the City insurance policies and preferred membership in the Public Risk Management of Florida insurance pool. The total proposed fiscal year 2017 insurance premium is \$553,319.00 for the listed lines of coverage as follows:

Property and Crime	\$162,609.00	7.00% decrease
Liability	165,897.00	16.70% increase
Workers Compensation	239,789.00	19.99% increase
Boiler and Machinery	2,385.00	1.53% decrease
Pollution Liability	4,588.00	.10% decrease
PRM Preferred Credit	<u>(21,949.00)</u>	
Primary Coverage Total -	<u>\$553,319.00</u>	9.80% increase

The City has been a preferred member of the Public Risk Management of Florida insurance pool of over 50 governmental entities for over 15 years. In 2012 staff did seek competitive bids from alternative carriers and found PRM to be the lowest cost provider of insurance to governmental entities.

The increase in workers compensation premium is attributed to two very recent Supreme Court rulings affecting all employers in Florida pertaining to maximums on attorney fee schedules and the extension of temporary total disability benefits from 104 weeks to 260 weeks. Increases in general liability rates and premiums are related to escalated costs of litigation and the recent City claims history, settlements and awards.

Requested Motion: "I move that the City Manager be authorized to enter into an agreement with Public Risk Management for renewal of the City insurance policies covering the period from 10/01/2016 to 09/30/2017 in the amount of \$553,319.00."

Attachments: Public Risk Management of Florida binding authority

**Reviewed by
City Manager:** WS



Proposal Pricing & Binding Authority

After careful consideration of the referenced proposal, we accept your insurance program as indicated with an "X" below:

	2015/2016	2016/2017	% Change
☐ PRM PROPERTY AND CRIME	\$174,848	\$162,609	-7.00%
☐ PRM GL/AL/E&O/LEL	\$142,162	\$165,897	16.70%
☐ PRM WORKERS' COMPENSATION	\$199,841	\$239,789	19.99%
☐ PRM BOILER & MACHINERY	\$2,422	\$2,385	-1.53%
Preferred Member Participation Credit	-\$19,972	-\$21,949	
GRAND TOTAL	\$499,301	\$548,731	9.90%
OPTIONAL/ANCILLARY COVERAGES			
☐ Cyber Liability	N/A	Included	
☐ Pollution Liability	\$4,629	\$4,588	

PAYMENT PLAN: PRM allows their members to pay their total costs in four (4) quarterly installments. The first installment is due at inception and is equal to 60% of all costs. The remaining costs will be paid over the next three (3) quarters.

This warrants that you have no knowledge of any claim, or incident that may result in a claim that has not been reported to the insurance carrier.

It is understood and agreed that referenced proposal provides only a summary of the insurance program options offered. The actual policies will contain the complete terms, conditions, deductibles, exclusions, etcetera. Please review policy language for a full understanding of purchased program.

Member Signature

Date

Print Member Name

**SIGNED BINDING AUTHORITY TO BE RETURNED BY
SEPTEMBER 14, 2016 TO WRM.**

THIS DOCUMENT IN ITS ENTIRETY IS CONFIDENTIAL & PRIVILEGED PROPRIETARY DOCUMENTATION-NOT PUBLIC RECORD.

St. Pete Beach City Commission
Agenda Report

Issue Considered: Approval to Initiate Professional Malpractice Law Suit against the Law Firm of Bryant Miller and Olive.

Date: September 13, 2016

Prepared By: Andrew Dickman, City Attorney

Through: Wayne Saunders, City Manager

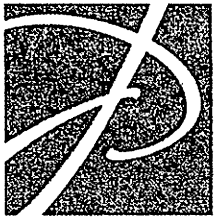
Summary of Issue: In the fall of 2014, the second district court of appeal rendered two opinions that the city violated the sunshine laws in *Chmielewski v. St. Pete Beach et al* and *James Anderson v. St. Pete Beach et al*. As a result, the city was obligated and did pay statutory attorney's fees of approximately \$625,000 combined. The law firm of Bryant Miller and Olive (BMO) represented the city on both cases and where later dismissed as city attorney. As a result, the city commission retained the services of Marion Hale, Esq. to evaluate these cases and render an opinion as to BMO's actions and advice. Ms. Hale concluded that, at least in *Anderson*, BMO committed professional malpractice. Based on this information, the city retained James Rolfes, Esq., to represent the city in this professional malpractice matter. Mr. Rolfes has further investigated the matter and has concluded that the city has a valid case against BMO and it is in the best interest of the city to initiate formal legal action against BMO before the statute of limitations runs in October of 2016. Mr. Rolfes is representing the city on a contingency basis. The city is responsible for expenses.

Requested Motion: I move to authorize special counsel to the city, James Rolfes, to initiate litigation against the law firm of Bryant Miller and Olive for professional malpractice.

Attachments: Marion Hale opinion letter

Reviewed by the
City Manager

WS



**JOHNSON
POPE
BOKOR
RUPPEL &
BURNS, LLP**

COUNSELORS AT LAW

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FILE NO.: 131390

marionh@jpfirm.com

September 23, 2015

Wayne Saunders
City Manager
City of St. Pete Beach
155 Corey Avenue
St. Pete Beach, FL 33706

Re: Bryant Miller and Olive law firm

Dear Mr. Saunders:

The City of St. Pete Beach has requested our law firm to analyze and express its opinion with respect to the services performed by the law firm of Bryant Miller and Olive (BMO) relating to executive sessions, also known as shade meetings, with the City Commissions. Although we were originally asked to opine as to whether we believed that BMO had committed malpractice and to examine the law firm's billings, we later limited the scope of the inquiry with the consent of the City Attorney to the former as it consumed more hours than anticipated.

Scope of the Work Performed

We did not review the transcripts of all of the City's shade meetings. Instead, we focused on the transcripts of the meetings which resulted in the Second District Court of Appeal decisions which found that the City had violated the Sunshine Law. In light of the fact that one of the elements of malpractice is damages and the City has neither paid nor is it facing any claims for damages for any other shade meeting, we have limited the scope of our inquiry to those two cases.

To reach our conclusion, we have read the transcripts the City provided of the shade meetings in which the Chmielewski, Pyle, Kadoura and the Anderson cases

"A 40 YEAR COMMITMENT TO OUR CLIENTS AND TO OUR COMMUNITY"



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were discussed, reviewed the circuit court decisions, reviewed the appellate court briefs and decisions in both cases and performed the legal research on the relevant topics. We also met with Ben H. Hill, BMO's counsel, and spoke with him on the telephone several times. We also reviewed and analyzed the cases Mr. Hill supplied to us.

The Sunshine Law

Both Article I Section 24 of the Florida Constitution and § 286.011, Fla. Stat. provide that meetings of any governmental body shall be open and noticed to the public. However, the law recognizes that it may be necessary for a governmental entity to meet with that entity's attorney to discuss pending litigation to which the entity is presently a party before a court or administrative agency. § 286.011(8), Fla. Stat. Accordingly, an exception has been made for such meetings (shade meetings), provided that certain conditions are met. One of those conditions is that "the subject matter of the meeting shall be confined to settlement negotiations or strategy sessions related to litigation expenditures." Section 286.011 "was enacted in the public interest to protect the public from 'closed door' politics." Sarasota Citizens For Responsible Gov't v. City of Sarasota, 48 So.3d 755, 762 (Fla. 2010). Therefore, "the law must be broadly construed to effect its remedial and protective purpose." *Id.*

The Second DCA found violations of the Sunshine law, § 286.011, Fla. Stat., in both the Anderson and the Chmielewski cases after the City prevailed in the circuit court in both cases. Although the appellate court found that the City violated the Sunshine law in both the Anderson and the Chmielewski cases, this is not negligence *per se*. There cannot be negligence *per se* if the law which is violated is designed to protect the public at large and not a particular class of individuals. Lingle v. Dion, 776 So.2d 1073 (Fla. 4th DCA 2001). The Florida Sunshine Law is clearly designed to protect the public at large and therefore the mere fact that the appellate court found that the City violated the law does not in and of itself mean that BMO committed malpractice. Furthermore, it was the City and not BMO which violated the Sunshine law and therefore even though the City did so by following BMO's advice, BMO is not legally responsible for the City's violation of the law.



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The Legal Standard for Malpractice

A legal malpractice action has three elements: 1) the attorney's employment; 2) the attorney's neglect of a reasonable duty; and 3) the attorney's negligence as the proximate cause of loss to the client. Law Office of David J. Stern, P.A. v. Sec. Nat. Servicing Corp., 969 So.2d 962, 966 (Fla. 2007). The City retained BMO as its legal counsel. As the City's legal counsel, BMO had a duty to insure that the City acted in accordance with the laws of the State of Florida, including the Sunshine Law. Thus, the City can establish the first element of the tort. The second element needs to be analyzed separately in the two cases.

The Chmielewski Case

In the Chmielewski case, the Second DCA found that the City had violated the Sunshine Law when the City failed to release the transcript of the July 30, 2008 shade meeting regarding the Chmielewskis' quiet title action against the City. The City, through BMO, took the position that the quiet title litigation had not been concluded, and thus the un-redacted transcript of the shade meeting should not be released. The Second DCA held that the July 20, 2008 shade meeting transcript became a matter of public record at the conclusion of the quiet title action through the entry of a final judgment.

If sued for malpractice, BMO will raise the doctrine of judgmental immunity which prevents lawsuits based on an attorney's good faith tactical decision. Natural Answers, Inc. v. Carlton Fields, P.A., 20 So.3d 884, 888 (Fla. 3d DCA 2009). As noted above, the City prevailed at the trial court level and the law does not appear to have been a settled issue in this case. BMO took an aggressive and ultimately unsuccessful position in this litigation. BMO made a decision, which proved to be the wrong decision, to refuse to release the un-redacted transcript of the shade meeting. The issue before the appellate court was not whether the shade meeting itself was a violation of the Sunshine Law and there has been no judicial determination to our knowledge that the meeting violated the Sunshine Law. Although the City paid the Chmielewskis' attorney's fees and thus did suffer damages, those fees were the result of BMO's decision to withhold the transcript of the shade meeting. We have not been asked to opine on whether the decision to keep the transcript secret was a wise use of public



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money. However, we do not believe that it was malpractice to fight the release as we do not believe it rose to the level of a "neglect of a reasonable duty." Law Office of David J. Stern, P.A., 969 So.2d at 966.

The Anderson Case

Unlike Chmielweski, the Second DCA found in the Anderson case that the City had violated the Sunshine Law when it conducted a series of seven shade meetings. During some of those meetings, members of the City Commission with the assistance of BMO lawyers devised a plan to amend the City's comprehensive plan by repealing the requirement of voter approval which is obviously not a permitted exception pursuant to the Sunshine Law. At the March 9, 2011 meeting, a BMO lawyer noted, "Our overriding concerns with this litigation and the strategy is to get you a comp plan." Although the plan was later discussed in public meetings, the appellate court found the violation of the Sunshine Law could not be cured. Anderson v. City of St. Pete Beach, 161 So.3d 548, 553 (Fla. 2d DCA 2014).

In Anderson, it is clear that BMO permitted the City Commission to discuss issues far afield from those permitted by the statute to be discussed in a shade meeting. For example, the commission lead by BMO lawyers discussed at the April 28, 2011 meeting the secret hiring of other BMO lawyers in Tallahassee to lobby the Florida legislature to pass legislation which was ultimately successful to prevent a challenge to the City's comprehensive plan. Such discussions were not confined to settlement negotiations or strategy sessions related to litigation expenditures. It is also clear from the transcripts that no effort was made during the shade meetings to keep the commissioners who were laypersons without formal legal training from raising issues unrelated to the strict confines of the Sunshine law. At one meeting in November of 2010, a commissioner questioned whether the discussion had strayed from the permitted topics and was assured that the discussion was permitted. At times, the BMO lawyers raised the issues which strayed from the statute such as a discussion at the November 8, 2010 meeting as to commissioners winning re-election and the increase in BMO billing rates.

As the City's legal counsel, BMO had a duty to insure that the City acted in accordance with the laws, including the Sunshine Law. In fact, both of the BMO



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lawyers, Susan Churuti and Mike Davis, are not only board certified in local government law, but also Ms. Churuti explained to the City Commission that she has given seminars in Sunshine Law compliance. The City had every reason to rely upon the advice it received from BMO. BMO breached that duty when it allowed shade meetings to be held where the subject matter of those meetings was not confined to settlement negotiations or strategy sessions related to litigation expenditures. As a result of BMO's negligence, the City was sued by James Anderson for violating the Sunshine Law and the City has been ordered to pay Mr. Anderson's attorney's fees. The amount of fees to be paid has not yet been determined but clearly the mistakes made by holding the shade meetings are directly responsible for the damages the City faces. Accordingly, it is our opinion that BMO committed malpractice in the Anderson case.

BMO's Defenses

BMO contends that despite the appellate court's ruling, everything that the BMO lawyers and the City Commissioners discussed during the shade meetings were covered by one of the exceptions to the Sunshine Law. The argument is therefore that the Second District Court of Appeal's decision was wrong. The next argument is that even if the court was not in error, the appellate court did not define what actions are covered by the exceptions to the statute and thus the discussions during those meetings would fall under the judgmental immunity doctrine. The firm additionally argues that since the trial court ruled in the City's favor and the trial court judge, David Demers, was more familiar with the issues in the various cases against the City, the BMO lawyers' action would fall within the concept of "fairly debatable" and thus be a viable defense to a malpractice claim. Crosby v. Jones, 705 So. 2d 1356 (Fla 1998). BMO further argues that Judge Demers had ruled in 2010 in another case, Kadoura v. Garnett, that the shade meetings the City had held in that case did not violate the Sunshine law and that decision had been upheld by the Second District Court of Appeal. Kadoura v. Garnett, 75 So. 3d 1257 (Fla. 2d DCA 2011). It thus argues that it reasonably relied upon Judge Demers' interpretation of the Sunshine Law in its later interpretation of the Sunshine law.

The defect with BMO's argument is that the discussions at the shade meetings strayed far from the exceptions in the Sunshine Law as the appellate court found and if



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BMO's interpretation of the statute were correct, local government could circumvent the law by merely announcing that whatever was discussed was actually related to "litigation expenditures." The purpose of the statute is to open to the public as many issues as possible. Sarasota Citizens For Responsible Gov't v. City of Sarasota, 48 So.3d 755, 762 (Fla. 2010); Zorc v. City of Vero Beach, 722 So.2d 891, 897 (Fla. 4th DCA 1998). Under BMO's interpretation, virtually any meeting could be held away from public scrutiny under the theory that in some tangential manner the discussion touched on "litigation expenditures." That is not the purpose of the statute. BMO's lawyers are board certified in local government law. One, as she noted to the City Commission, is well known for giving seminars about the Sunshine Law. They had the responsibility to correctly interpret the law and to make sure that the City Commissioners who were laypersons followed the statute. This is not an example of a law firm providing legal advice to a client who had the opportunity to accept or reject the advice. BMO's lawyers conducted the shade meetings and had ample opportunities to stop the violations of the statute.

Damages

The damages in the Anderson case have not been determined but they are potentially substantial. Anderson's counsel has supplied the City Attorney with a draft motion which requests \$707,900 in attorney's fees with a multiplier of between 1.5 and 2 plus \$8,351.08 in taxable costs. Our firm is not familiar with the work performed and thus not capable of providing any estimate of what amount the court might award but it appears that a substantial judgment may be entered.

Statute of Limitations

The time for bringing any claim against BMO for malpractice is two years from the time the City knew or should have known of the claim. § 95.11(4)(a), Fla. Stat. As the City knew or should have known of the claim as of the decision of the Second DCA on October 15, 2014, any claim should be brought within two years of that date.



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BMO's threatened counter-claim

BMO has informed us that it will seek damages against the City totaling approximately \$60,000 if the City sues it for malpractice. Specifically, the law firm claims it spent that amount defending claims against it asserted in a motion for sanctions and in a grievance filed against it with the Florida Bar. The law firm has also alleged that it may seek indemnification for the defense of any malpractice claim if the City decides to pursue such a claim. BMO points to a policy adopted by the City in which the City had agreed to reimburse City officers and employees "for the reasonable attorney's fees and costs incurred by covered persons while defending themselves against charges arising out of or in connection with their performance of official duties and while serving a public purpose." Guidelines for Reimbursement of Attorney's Fees and Costs Incurred by City Officers and Employees. We have not been asked to opine on the issue of whether the indemnification is enforceable if BMO engaged in malpractice.

Likelihood of Success

Our firm has been asked to opine as to whether the City has a cause of action for malpractice and based upon the information we have been supplied, the decision of the Second DCA and the cases interpreting the Sunshine Law as more fully discussed herein, we believe that it does. We have discussed in this opinion the defenses that BMO has raised prior to the writing of this memo. However, no one can predict how a court of law or how a jury will decide a case and we do not know whether BMO will raise additional defenses not previously disclosed. Thus, we cannot accurately predict the outcome of such a claim should the City decide to bring it.

Sincerely,

Marion Hale

**St. Pete Beach City Commission
Agenda Report**

Issue Considered: Initiate Foreclosure Law Suit against property located at 3941 Moody Street.

Date: September 13, 2016

Prepared By: Andrew Dickman, City Attorney

Through: Wayne Saunders, City Manager

Summary of Issue: This matter comes from an Administrative Lien recorded on the property on August 19, 2010. The code violations were heard before the Special Magistrate and all processes were followed prior to the Order Imposing Administrative Lien was recorded on October 13, 2010. A demand letter and draft Complaint to Foreclose on Administrative Lien was served and sent by certified mail to Stephen and Deborah Wheaton on July 11, 2016 with demand for a response to be received within 30 days. No payment or attempt to pay has been made by Stephen and Deborah Wheaton and we are requesting authorization to initiate foreclosure proceedings.

Requested Motion: "I move to authorize the city attorney to initiate litigation against Stephen K Wheaton and Deborah Wheaton for code violations and liens associated with the property located at 3941 Moody Street, St. Pete Beach, FL 33706."

Attachment: Letter to Stephen K. Wheaton and Deborah Wheaton.

**Reviewed by the
City Manager:**

WS

Law Office of Andrew Dickman, P.A.

Miami

T: (305) 758-3621

F: (305) 758-0508

Naples

T: (239) 434-0840

F: (239) 434-0940

St. Petersburg

T: (727) 527-7150

F: (727) 527-7180

July 11, 2016

VIA HAND DELIVERY AND CERTIFIED
MAIL, RETURN RECEIPT REQUESTED

Stephen K. Wheaton

Deborah Wheaton

305 40th Avenue

St. Pete Beach, FL 33706-2611

RE: Demand for Payment of Administrative Fine/Lien
3941 Moody Street, St. Pete Beach, FL 33706

Dear Mr. and Mrs. Wheaton:

I am the City Attorney for the City of St. Pete Beach, Florida. This letter will serve as formal demand of your obligation to pay the sum of \$182,650.00 pursuant to the Order Imposing Administrative Fine/Lien entered on August 19, 2010 (copy attached). Pursuant to that Order the fines have accrued at \$100.00 per day retroactive from June 21, 2010 for failure to bring the above-referenced property into compliance of the violations of the Code of Ordinances of the City of St. Pete Beach pursuant to the Special Magistrates Findings of Fact and Order of June 21, 2010.

Unless payment of the above amount is received in full within thirty (30) days of the date of this letter, we will have no alternative but to exercise whatever rights and remedies we have under the law to enforce such payment, including but not limited to institution of legal proceedings against you to recover the above amount, together with attorney's fees and cost. If you would like to explore other options, please contact my office immediately.

The City of St. Pete Beach will start legal action to foreclose on its lien if payment in full is not received within thirty (30) days of the date of this letter, which may result in the sale of the property. The City may also have the right to seek a judgment against you for the any deficiency after the home is sold. A copy of the Complaint for Foreclosure of Administrative Lien is attached for your review.

Kindly govern yourself accordingly.

Sincerely,



ANDREW DICKMAN

City Attorney

Enclosures: (as stated)

**St. Pete Beach City Commission
Agenda Report**

ISSUE CONSIDERED: Final Reading: Ordinance 2016-14 providing a supplemental appropriation for fiscal year 2016 to the General Fund and providing for funding.

DATE: September 13, 2016

PREPARED BY: Elaine Edmunds, Administrative Services Director

SUMMARY OF ISSUE: Ordinance 2016-14 provides a supplemental appropriation and revenue to the General Fund in the amount of \$136,482. The adjustment and funding sources are as follows:

- City Attorney Budget: The \$272,136.88 of settlement payments relating to the Anderson lawsuit that are payable in FY16 were accrued as a liability in the FY15 year end audit and therefore recorded as an expense the previous year.
- Community Development Budget: The City is utilizing a Special Master to collect fines for the City. To date, the City has collected approximately \$1,600 of additional fines over the amount budgeted. However, the increase in use of the Special Master has resulted in higher costs. Therefore, the \$1,600 is being allocated to help offset these costs.
- The Fire Department Budget: The EMS funding received from Pinellas County increased \$122,500 to cover the costs associated with hiring three additional paramedics. The additional revenue is offset by an increase in EMS personnel costs.
- The Recreation Department Budget: The City received \$6,275 in donations to be used toward the robotics program. The Recreation Department budget is proposed to increase by the same amount to cover the cost of travel, computers and additional expenditures relating to this activity. Additionally, the City received an insurance reimbursement of \$6,107 for sewer backup damage at the recreation center. The building maintenance budget is being increased by the same amount to cover the emergency hazard cleanup associated with the event.

REQUESTED MOTION: "I move to approve Ordinance 2016-14, (read title)..."

ATTACHMENTS: Ordinance 2016-14
Spreadsheet outlining changes

**REVIEWED BY
CITY MANAGER:**

WS

ORDINANCE 2016-14

AN ORDINANCE OF THE CITY OF ST. PETE BEACH, FLORIDA PROVIDING FOR A SUPPLEMENTAL APPROPRIATION TO THE GENERAL FUND FOR FISCAL YEAR ENDING SEPTEMBER 30, 2016; PROVIDING FOR FUNDING; PROVIDING FOR AN EFFECTIVE DATE.

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

WHEREAS, estimated revenues and expenditures are provided in Ordinance 2015-25, Budget Ordinance; and

WHEREAS, the authority for appropriation amendments is provided in Article III, Section 3.13 (a) of the City Charter; and

WHEREAS, the city commission wishes to amend the general, wastewater, reclaimed water, stormwater and capital improvement fund budgets for additional expenditures in fiscal year 2016 and provide funding for same.

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

Section One. An increase in the general fund budget revenue in the amount of \$136,482 recognizing the increase in EMS funding (\$122,500), Special Master fine revenues (\$1,600), donations (\$6,275) and Insurance Proceeds (\$6,107). An increase in the general fund budget expenditures of \$136,482 to be allocated as follows: Fire Department (\$122,500); Community Development Department (\$1,600) and Recreation Department (\$12,382).

Section Two. A decrease in the general fund budget expenditures of \$275,000 recognizing the decrease in the City Attorney's budget as a result of settlement costs being accrued and recognized in fiscal year 2015.

Section Three. This ordinance shall become effective upon final passage.

Deborah Schechner, MAYOR

FIRST READING : _____
PUBLISHED : _____
SECOND READING : _____
PUBLIC HEARING : _____

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 _____ day of _____, 2016.

City of St. Pete Beach
Fiscal Year 2016 Budget Adjustment

Description	Account #	Amount
GENERAL FUND:		
Revenues:		
EMS Reimbursement	.001.324.400	\$122,500
Special Master	.001.354.100	\$1,600
Insurance Proceeds	.001.364.490	\$6,107
Underwriting - Robotics	.001.366.576	\$6,275
Total Increase in Revenue		\$136,482
Expenditures:		
Community Development - Professional/Contractual	.001.5402.524.5310	\$1,600
Fire/EMS - Salaries & Wages	.001.5802.522.5120	\$122,500
Recreation:		
Professional/Contractual	.001.6106.572.5310	\$1,175
Travel/Training	.001.6106.572.5400	\$2,845
Building Maintenance	.001.6106.572.5461	\$6,107
Other Expenses	.001.6106.572.5499	\$50
Operating Supplies	.001.6106.572.5529	\$2,205
Total Increase in Expenditures		\$136,482
City Attorney - Settlement Costs	.001.5000.511.5321	-\$275,000
Return to Fund Balance		\$275,000

**St. Pete Beach City Commission
Agenda Report**

Issue Considered: Ordinance No 2016-15 – Beach Concession Huts

Date: September 13th, 2016

Prepared By: Jennifer Bryla – Community Development Director

Through: Wayne Saunders, City Manager

Summary of Issue: Proposed for your consideration is City-initiated amendment to Division 6 – Supplemental Regulations. Providing for 6.12(h) Beach Concession Huts. The existing code language located in Division 25 – Coastal Protection and Conservation, specifically 25.6(a) requires that every “tiki hut” must secure a conditional use approval for each hut. The City Commission recognized that this would be an unnecessary exercise if appropriate code language existed. At that time the City Commission directed staff to develop language for “tiki huts” or Beach Concession Huts that would allow for administrative approval if certain criteria were adhered to.

The draft language herein has been reviewed by the vendors and hoteliers for comment and their input has been incorporated. Ordinance 2016-15 would regulate the number, look and accessory elements associated with Beach Concession Huts; it will also remove the conflicting language in Division 25.

Requested Motion: I move to approve Ordinance No. 2016-15 on first reading as presented. (read title)

Attachments

- (1) Staff Report
- (2) Ordinance 2016-15
- (3) Exhibit A
- (4) Division 25.6 (a) with changes in underline strikethrough

Reviewed by the

City Manager

WS

	St. Pete Beach City Commission 155 Corey Avenue St. Pete Beach, FL 33706 727-367-2735
9/13/2016	
Item Number Ordinance #2016-15 Type of Application Amendment to Land Development Code Division 6, Section 6.12 – Commercial accessory and temporary equipment, structures, portable buildings, and trailers, dumpsters and commercial tents and Division 25, Section 25.6(a) Tiki Huts Applicant City of St. Pete Beach Location City wide Project Planner Jennifer Bryla, AICP, Requested Action Approval of Ordinance 2016-15 Staff Recommendation Approval City Commission First Reading (9/13/2016) Final Reading (10/11/2016)	ITEM SUMMARY: The City Commission in the Fall of 2015 directed staff to review the existing code requirements to ensure that the codes were being properly enforced with regard to the sand beach activities. Staff found that several of the hoteliers and beach concession vendors had not secured, or the City did not have evidence of, the required Conditional Use permits as the code requires. As this information came to light, and the vendors were contacted, several who had existing huts on the sand beach were happy to comply and submitted applications for Conditional Use approval. Recognizing that the number of huts that would require the CU approval would exceed 20, Commission directed staff to adjust the language that regulates the huts. The intent of the Ordinance is to allow the vendors to apply for administrative approval for the huts if they could comply with the criteria outlined. If the vendor could not comply, the applicant could still seek a Conditional Use approval through the City Commission. This step by the City Commission would save the applicant from the expense and time for the Conditional Use process and would ensure that the City would have structures in place that are consistent with the directives of the City. Ordinance 2016-15 would regulate the number, look and accessory elements associated with Beach Concession Huts; it will also remove the conflicting language in Division 25. 

Findings

In its review of the proposed application, staff has determined:

1. The proposed Ordinance is consistent with Florida Statutes, including Chapter 161.053.
2. The proposed Ordinance is consistent with DEP 2012 Rules and Procedures for coastal construction and excavation 62B-33.
3. The proposed Ordinance is consistent with the Pinellas County Regional Policy Plan.
4. The proposed Ordinance is consistent with the St. Pete Beach Comprehensive Plan.
5. The proposed Ordinance is consistent with the intent of the LDC.

CONTEXT

Staff has completed research from vendors, other coastal jurisdictions, Florida Department of Environmental Protection and Florida Fish and Wildlife in order to develop the code language. The original language that regulated “Tiki” huts was adopted via Ordinance 2003-07. This Ordinance was included in the creation of the City’s Land Development Code. Division 25 – Coastal and Conservation was just one small component of the 172 page document. With the passage of the proposed Ordinance 2016-15, the City will receive surety that the activities occurring on the sand beach are in harmony with the goals and initiatives that are represented in the Comprehensive Plan. This initiative strives to balance the robust tourist industry that is present alongside the established residential communities.

PUBLIC NOTICE:

Notice of public hearing has been advertised as required by State Statutes. As of the date of this report, no oral or written comments have been received. Oral and written comments may be presented at the public hearing.

COMPREHENSIVE PLAN/LAND DEVELOPMENT CODE:

The proposed Ordinance is consistent with the City of St. Pete Beach’s Comprehensive Plan, specifically Objective 1.9 of the Coastal and Conservation Element which states:

In accordance with this Comprehensive Plan, the City of St. Pete Beach shall protect and restore its beaches, dunes and natural system, protect its recreational and commercial working waterfronts, and establish construction standards which minimize the impacts of man-made structures on these systems through the land development regulations.

The proposed Ordinance is also consistent with the intent of the Land Development Code and further augments the regulation for accessory commercial structures.

DEPARTMENT OF ENVIRONMENTAL REGULATIONS:

The proposed Ordinance is consistent with the DEP regulations found in the Rules and Procedures for Coastal Construction and Excavation publication #62B-33 which states:

(c) Minor activities which do not cause an adverse impact on the coastal system and do not cause a disturbance to any significant or primary dune are exempt from the permitting requirements of this chapter.

	STAFF RECOMMENDATION: Upon review of the above guiding documents, staff recommends approval of Ordinance 2016-15 as presented. Attachments (1) Ordinance 2016-15 (2) Exhibit A (3) Staff Report
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ORDINANCE NO. 2016-15

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF ST. PETE BEACH, FLORIDA, AMENDING DIVISION 6 SUPPLEMENTAL REGULATIONS; PROVIDING FOR SECTION 6.12 (h) BEACH CONCESSION STANDARDS AS OUTLINED IN "EXHIBIT A"; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission recognizes the need to regulate the standards for beach concession stands and their accessory equipment; 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;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF ST. PETE BEACH, FLORIDA, IN SESSION DULY AND REGULARLY ASSEMBLED THAT:

Section 1. Division 6.12 – Commercial accessory and temporary equipment, structures, portable buildings and trailers, dumpsters and commercial tents, of the City of St. Pete Beach Land Development Code is hereby amended as illustrated in "Exhibit A", providing for 6.12(h).

Section 2. All Ordinances or parts of Ordinances, in conflict herewith re 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.

PASSED ON FIRST READING: _____, a.d. 2016

PASSED ON SECOND AND FINAL READING _____, a.d. 2016

MAYOR

FIRST READING: _____

PUBLISHED: _____

SECOND READING: _____

PUBLISHED: _____

“Exhibit A”

6.12 – Commercial accessory and temporary equipment, structures, portable buildings and trailers, dumpsters and commercial tents.

* * *

h) BEACH CONCESSION STANDARDS

Temporary Structures may be erected and maintained by a transient lodging business that has beach frontage along the Gulf of Mexico, in accordance with the following, otherwise a conditional use permit must be obtained in accordance with Division 4 of the Land Developer Code.

1. Concession Huts

- i. Concession Huts shall be for the rental of beach equipment, and/or watersports.
- ii. One Concession Hut structure is permitted per transient lodging facility or one for every 200 linear feet of sand beach as measured along the property line adjacent to the sand beach. Huts may be arranged on the sand beach as desired by the property owner.
- iii. Concession Huts shall have a maximum floor area of one-hundred (100) square feet, excluding any platform, with exterior dimensions not to exceed nine feet (9'-0") in height from the sand to the eave line (i.e., the intersection of the roof and the exterior walls).
- iv. Any architectural projections above the eave line may not exceed twelve feet (12'-0") in height from the sand/platform (i.e., roof and roof related architectural elements). All roofing elements shall be appropriate to and consistent with the unique beach environment and/or evocative of the upland architecture, and shall be subject to the review and approval of Community Development Review staff. All building construction materials and finishes shall be appropriate to and consistent with the unique beach environment, subject to the administrative review and approval. Accessory electrical apparatuses may extend about the roof line up to 36" additionally.
- v. All Concession Huts shall be designed to preserve vistas and shall be fully open from forty-six (46") inches above the finished floor deck to a minimum eight feet (8'-0") above the sand, with the exception of structural columns or posts. One side of a concession hut may be completely solid to

accommodate electrical and life saving devices and apparatuses.

- vi. Any security side panels that may be used as shade devices shall be fully supported from the structure itself and shall not contain independent vertical support columns that extend directly to the sand or perimeter platform walkway.
- vii. A detached perimeter platform shall be prohibited as an addition to surround the concession hut.
- viii. All Concession Huts shall be designed so as to facilitate their immediate removal from the beach upon demand by the City or in the event of an emergency condition.
- ix. Huts shall be located a minimum of 100' from the mean high water mark.
- x. Signage shall be limited to a total of 60 sf for all signage attached to the Huts. All pamphlets or advertisement shall be secured within the hut to prevent litter on the beach.
- xi. Exterior surface colors and finishes shall be appropriate to the design of the structure and shall match the upland facility they serve to the maximum extent practical. The review and approval of Design of the Hut is considered an administrative approval.
- xii. Towel bins, not to exceed 42" in height, may be permitted adjacent to the Concession Huts for the containment of disposed towels. Such bins shall be of a durable material and be able to be removed from the beach to the upland business if necessary.

2. Storage Boxes

- i. Storage Boxes shall be equipped to be fully mobile via trailer or other towing mechanism incorporated internally, for immediate removal from the beach upon demand by the City, or in cases of mandatory emergency evacuation. Skids shall not be used if the Storage Boxes are to be towed.
- ii. Plans for Concession Huts and Storage Boxes shall include accurate dimensions and scale.
- iii. Storage Boxes shall be designed for the horizontal storage of chaise lounge pads, umbrellas, sun canopies, daybeds, and similar items and shall not exceed a maximum size of eight feet (8'-0") in length, eight feet (8'-0") in width and an overall height of eight feet (8'-0") above the sand.

- iv. Storage Boxes shall be simply designed, free of adornment and embellishment, and detailed in a manner appropriate to the unique beach environment inclusive of construction materials and finishes and shall be painted to match the concession hut without an accent trim color, and shall be subject to the review and approval of the Technical Review Committee.
- v. No signage shall be permitted on storage facilities, except a discreetly displayed plaque measuring a maximum four inches by six inches (4" x 6"), identifying the Concessionaire's name, address and telephone number.
- vi. Two storage boxes shall be permitted per Concession Hut.

3. Driving on the Beach

Any concessionaire that requires the ability to drive on the sandy beach in conjunction with the operation of the business on the sand beach shall be required to adhere to the following:

- i. A letter of authorization is required from each of the private property affected.
- ii. All vehicles must remain at least ten feet (10') at all times from people, vegetation, dunes and wildlife nesting areas.
- iii. A 10 mph speed limit must be adhered to all times.
- iv. A liability bond is required to insure that no damage is done to the beach area involved, the amount of which is to be determined according to the activities involved. Proof of insurance is required by the City Manager in the amount of One Million Dollars (\$1,000,000) Bodily Injury and Five-Hundred Thousand Dollars (\$500,000) Property Damage from the sponsoring organization.

v.

4. General Restrictions

- i. Signage on Umbrellas or Cabanas shall be prohibited, excluding the transient lodging logo or the like.
- ii. Children's sand play areas may be incorporated into the overall beach concession hut area and shall have a maximum area of 36' square feet and shall have no elements that are taller than 30" above the sand beach, with the exception of shade umbrellas and chairs for the use of guardians.
- iii. In no instance shall serving trays, coolers, boxes, or other devices or objects remain stacked or stored outside of a storage facility and visible from any vantage point on the beach, at any time.
- iv. All mechanical equipment shall be concealed to the greatest extent

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possible and not exposed or remain on vehicular trailer.

- v. The State of Florida Department of Environmental Protection reserves the right to review and permit all structures, including Concession Huts and Storage Boxes, pursuant to Section 161.56 of the Florida Statutes.

DRAFT

**St. Pete Beach City Commission
Agenda Report**

Issue Considered: Ordinance No 2016-08 – Commercial Accessory Structures

Date: September 13, 2016

Prepared By: Jennifer Bryla – Community Development Director

Through: Wayne Saunders, City Manager

Summary of Issue: Proposed for your consideration is City-initiated amendment to Division 6 of the Land Development Code regulating Accessory Structures on Commercial Property. The changes proposed are in response to direction from the City Commission in June of this year. It came to the attention of the City Commission that commercial properties are placing temporary toilets on their properties in a permanent capacity.

The Commission directed staff to draft an ordinance addressing this “Port-a-let” trend within the City. This Ordinance will regulate the time, location and removal of portable toilets on private property. This ordinance does not supersede the requirements for chemical toilets that are a component of the Florida Building code. Nor does this Ordinance prohibit the ability of temporary toilets from being incorporated as a component of a special event permit.

Requested Motion: I move to approve Ordinance No. 2016-08 on first reading (read title).

Attachments

- (1) **Exhibit A** – Staff Report
- (2) **Exhibit B** – Ordinance 2016-08
- (3) **Exhibit C** - Division 6.12 of the Land Development Code with changes in underline ~~strikethrough~~.

**Reviewed by the
City Manager**

WS

	St. Pete Beach City Commission 155 Corey Avenue St. Pete Beach, FL 33706 727-367-2735
9/13/2016	
Item Number Ordinance #2016-08 Type of Application Amendment to Land Development Code Division 2 - definitions, and Division 6 – Commercial accessory and temporary equipment, structures, portable buildings, and trailers, dumpsters and commercial tents. Applicant City of St. Pete Beach Location City wide Project Planner Jennifer Bryla, AICP, Requested Action Approval of Ordinance 2016-08 Staff Recommendation Approval Planning Board Hearing 8/16; approval 3-0 (Olhaber, Lott)	ITEM SUMMARY: It has come to the attention of the City Commission that commercial properties are placing temporary toilets on their properties in a permanent capacity. The City Commission has directed staff to draft an ordinance addressing this “Port-a-let” trend within the City. This Ordinance would be constructed under the commercial accessory structure section of Land Development Code. This ordinance would not supersede the requirements for chemical toilets that are a component of the Florida Building code. The City presently has no specific regulation regarding temporary toilets. This lack of guidance from the City’s code has resulted in several instances of business owners providing temporary toilets on a greater than 30 days or permanent basis. The temporary toilets are never intended to circumvent proper wastewater utility removal. Ordinance 2016-08 will provide surety to businesses and citizens alike as to City’s expectation for business owners. This Ordinance will regulate the time, location and removal of portable toilets on private property. PUBLIC NOTICE: Notice of public hearing has been advertised as required by State Statutes. As of the date of this report, no oral or written comments have been 

City Commission First Reading (9/13/2016) Final Reading (10/11/2016) Findings In its review of the proposed application, staff has determined: 1. The proposed application is consistent with Florida Statutes. 2. The proposed application is consistent with the Pinellas County Regional Policy Plan. 3. The proposed application is consistent with the St. Pete Beach Comprehensive Plan. 4. The proposed application is consistent with the intent of the LDC.	received. Oral and written comments may be presented at the public hearing. There was one public comment in support of the Ordinance at the Planning Board hearing. COMPREHENSIVE PLAN/LAND DEVELOPMENT CODE: The proposed Ordinance is consistent with the City of St. Pete Beach's Comprehensive Plan, which does not regulate temporary or portable toilets. The proposed Ordinance is also consistent with the intent of the Land Development Code and further augments the regulation for accessory commercial structures. PLANNING BOARD: The Planning Board heard Ordinance 2016-08 on August 16th, 2016 and made a recommendation of approval to the City Commission. STAFF RECOMMENDATION: Upon review of the above guiding documents, staff recommends approval of Ordinance 2016-08 as presented. Attachments (1) Exhibit A – Ordinance 2016-08 (2) Exhibit B – Staff Report (3) Exhibit C – Section 6.12, Land Development Code with edits indicated in underline strikethrough
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ORDINANCE NO. 2016-08

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF ST. PETE BEACH, FLORIDA, AMENDING SECTION 2.1 OF THE CITY OF ST. PETE BEACH LAND DEVELOPMENT CODE PROVIDING FOR A DEFINITION OF PORTABLE TOILETS; AMENDING SECTION 6.12 AND SECTION 6.13 PROVIDING FOR REGULATION OF PORTABLE TOILETS AS ACCESSORY STRUCTURES FOR COMMERCIAL AND RESIDENTIAL USES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission recognizes the need to regulate portable toilets in the City; 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;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF ST. PETE BEACH, FLORIDA, IN SESSION DULY AND REGULARLY ASSEMBLED THAT:

SECTION 1. Section 2.1 of the Land Development Code is amended as follows:

Sec. 2.1. - Words, terms and phrases defined.

Portable toilet means one or more commercially manufactured or assembled self-contained toilet facility that is portable and is not designed or intended for connection to a sewer system with a standard connection.

SECTION 2. Section 6.12 of the Land Development Code is amended as follows:

Sec. 6.12. - Commercial accessory and temporary equipment, structures, portable buildings, and trailers, dumpsters and commercial tents.

(g) Portable toilets shall be regulated as follows:

- (1) Nothing in this chapter shall alter the regulations or use of portable toilets in relation to any construction project as set by Florida Statutes or Pinellas County.
- (2) The use of portable toilets shall be strictly prohibited, except during emergency interruption of sewer service or in conjunction with a special event, building, temporary use or conditional use permit, subject to approval.
- (3) The location of portable toilets shall be approved at the time of issuance of the above-stated permits.
- (4) Portable toilets associated with a building permit shall be in accordance with the regulations pertaining to “chemical toilets” and “portable toilets” set forth in Sec. 98-70 of the Code of Ordinances.

- (5) Portable toilets shall be kept clean at all times and shall not emit an odor which is noticeable from adjacent properties.
- (6) Portable toilets shall be removed from the premises immediately following the close of the development permit, special event, or emergency interruption.
- (7) Portable toilets shall be located as far from the public right-of-way as possible, or otherwise shielded from view by fencing or landscaping.
- (8) Any portable toilet currently either located on a site or in a manner which is in violation of the provisions of this chapter shall be removed within ten (10) days of the effective date of this Ordinance.
- (9) Violation of this chapter shall be declared to constitute a public nuisance and shall be processed in accordance with Chapter 46 of the Code of Ordinances.

SECTION 3. Section 6.13 of the Land Development Code is amended as follows:

Sec. 6.13. - Residential accessory structures.

(f) The use of portable toilets shall be strictly prohibited, except in conjunction with an active building permit, and

- (1) Shall be regulated in accordance with Sec. 98-70 of the Code of Ordinances; and
- (2) Shall be removed from the premises immediately following the close of the building permit.
- (3) Violation of this chapter shall be declared to constitute a public nuisance and shall be processed in accordance with Chapter 46 of the Code of Ordinances.

SECTION 4. This Ordinance shall be published in accordance with the requirements of law.

SECTION 5. This Ordinance shall become effective immediately upon final passage and adoption.

PASSED ON FIRST READING: _____, a.d. 2016

PASSED ON SECOND AND FINAL READING _____, a.d. 2016

MAYOR

FIRST READING: _____

PUBLISHED: _____

SECOND READING: _____

PUBLISHED: _____

Sec. 6.12. - Commercial accessory and temporary equipment, structures, portable buildings and trailers, dumpsters and commercial tents.

- (a) Commercial accessory structures may be allowed as follows:
 - (1) Commercial accessory structures shall be limited to storage uses only.
 - (2) The accessory structure shall be no larger than 150 square feet.
 - (3) The structure will either be designed and constructed in the same architectural style as the principal structure, or it shall be screened from public view by the same type enclosure that is required for the dumpster.
 - (4) No more than one accessory structure shall be placed or erected on a zoning lot.
 - (5) An accessory structure may occupy one required parking space for a period not to exceed 30 days, once per calendar year.
 - (6) No accessory structure shall be located closer to the public right-of-way than the structure to which it is accessory.
- (b) Commercial equipment may be allowed as follows:
 - (1) All commercial equipment shall be located within an enclosure or otherwise screened from public view. Equipment shall be limited to tools, machinery, or enclosed storage containers.
 - (2) Commercial equipment, except for properly enclosed waste or refuse containers, shall not be located within any yard that abuts a public street without the specific approval of the appropriate board of authority.
 - (3) Vending machines may be located in front of a business premises, provided the location is not on a public right-of-way, does not otherwise impede pedestrian access and circulation, and the total area devoted to vending machines shall not exceed 18 square feet. However, vending machines that are visible from the public right-of-way shall be screened from public view.
- (c) Construction trailers or portable buildings may be allowed as follows:
 - (1) Construction trailers may only be placed on a construction site operating under a valid building permit. A permit for a construction trailer shall be obtained from the city prior to placing the trailer on the site. A construction trailer may only be used as an office for the contractor(s) on the site and for storage of equipment and construction material for the site.
 - (2) Trailers or other portable buildings to be used for storage on a business premises may be permitted by the city for a period of time not to exceed 120 days; provided that such trailers or temporary buildings shall be located on the property in such a manner as to not be visible from the public rights-of-way. This provision shall not apply to trucks or trailers parked on a premises for the purposes of making a delivery to the business; provided that such delivery vehicles shall not remain on the property for more than two consecutive days.
- (d) Dumpsters, commercial waste or refuse containers shall be regulated as follows:
 - (1) All new or replacement dumpsters shall have lids that shall be remain closed except for the deposit of waste materials in the dumpster. This provision shall not apply to dumpsters larger than eight-yard capacity.
 - (2) All dumpsters, commercial waste and refuse containers, except those that are specifically approved for temporary location and use, shall be located on the same property with the use it serves and fully enclosed as follows:
 - a. All dumpsters, commercial waste and refuse containers shall be located as far from public streets and adjacent property as is practical, and dumpsters shall be located on a properly constructed concrete pad.

- b. All dumpsters, commercial waste and refuse containers shall be located within a proper opaque enclosure of sufficient height to fully screen the dumpster, commercial waste or refuse container.
- (3) Dumpster enclosures shall require a building permit and shall be constructed to meet all applicable building standards.
- (4) Where certain circumstances, special conditions may prevent the location and enclosure of a dumpster in accord with paragraph (2) above, the city may grant use of the city right-of-way if it finds that any one of the following conditions would result from locating the dumpster in strict compliance with the regulations:
 - a. On-site location of the dumpster would decrease the number of existing parking spaces below that required under the district regulations.
 - b. On-site location of the dumpster would prevent or materially impair reasonable ingress and egress to the property.
 - c. Access by the dumpster service contractor for pickup and dumping into a loader/packer type garbage truck would be materially impaired.
- (5) Temporary dumpsters for construction projects shall be located as approved at the time a building permit is issued, and temporary dumpsters permitted for temporary uses shall be located in accordance with the approved site plan for the temporary use permit.
- (e) Residential/commercial sales, management and leasing offices may be permitted in a new residential development in accordance with the following:
 - (1) The office may be permitted as an accessory use on the same lot, but shall not be used except by the company developing the site and in connection with the development within which it is located. A building permit is required.
 - (2) The office, if located within a temporary structure, may not be used as an office for more than 12 months, and thereafter shall be removed.
 - (3) At least three off-street parking spaces shall be provided on the same lot as the office and shall be maintained so long as the office is used as such.
 - (4) In a multi-family development, a management and/or leasing office may be maintained within one of the residential buildings, or within a permanent accessory building which was approved as part of the original site plan; provided, that such office, if located within an accessory building, shall not be the principal use of the accessory building, and said accessory building shall be architecturally compatible with the principal structures in the development.
- (f) Tents be may erected and maintained by a business within the RFM or CG-1 zoning districts, provided:
 - (1) No tent shall be erected within any public right-of-way or within 75 feet of the back edge of a curb, public sidewalk or roadway, whichever is most restrictive.
 - (2) Tents shall also be required to meet the side and rear required yards of the zoning district in which the tent is located;
 - (3) Tents shall not be located on a parking lot or pedestrian walkway in such a manner that the normal flow of traffic on the site cannot be maintained nor shall any tent render useless more than ten percent of the parking required for the business;
 - (4) Tents shall be maintained so as not be constitute a nuisance or hazard;
 - (5) Tents used for public assembly or cooking or within which any combustible material will be used or stored must meet all requirements of the Florida Fire Prevention Code and be approved by the fire marshal prior to their use.

- (6) Tents which are placed upon any public beach must be approved through the city's special event permitting process and be approved by the fire marshal prior to their use.

(g) Portable toilets shall be regulated as follows:

- (1) Nothing in this chapter shall alter the regulations or use of portable toilets in relation to any construction project as set by Florida Statutes or Pinellas County.
- (2) The use of portable toilets shall be strictly prohibited, except during emergency interruption of sewer service or in conjunction with a special event, building, temporary use or conditional use permit, subject to approval.
- (3) The location of portable toilets shall be approved at the time of issuance of the above-stated permits.
- (4) Portable toilets associated with a building permit shall be in accordance with the regulations pertaining to "chemical toilets" and "portable toilets" set forth in Sec. 98-70 of the Code of Ordinances.
- (5) Portable toilets shall be kept clean at all times and shall not emit an odor which is noticeable from adjacent properties.
- (6) Portable toilets shall be removed from the premises immediately following the close of the development permit, special event, or emergency interruption.
- (7) Portable toilets shall be located as far from the public right-of-way as possible, or otherwise shielded from view by fencing or landscaping.
- (8) Any portable toilet currently either located on a site or in a manner which is in violation of the provisions of this chapter shall be removed within ten (10) days of the effective date of this Ordinance.
- (9) Violation of this chapter shall be declared to constitute a public nuisance and shall be processed in accordance with Chapter 46 of the Code of Ordinances.

(Ord. No. 03-7, § 3, 5-1-03; Ord. No. 2004-33, § 1, 12-14-04)

Sec. 6.13. - Accessory residential structures.

Accessory residential structures may be permitted only on zoning lots having one or more existing residential dwelling units and shall be regulated as follows:

- (a) Garage, private residential, as defined, fall into one of two types, either attached to or detached from the principal residential structure. Under the terms of this section, the term "garage" shall also include carports. For the purposes of this Code, a garage shall be deemed to be attached only when it shares at least 75 percent of the length of one wall in common with the principal structure to which it is an accessory.
 - (1) Attached garage. An attached garage shall be subject to the same required yard and height requirements as the principal structure.
 - (2) Detached garage. Detached garages shall be regulated as follows:
 - a. Required yards:

Front yard:	20 feet
Secondary front yard:	As required for the principal structure
Side yards:	As required for the principal structure
Rear yard:	Ten feet if accessible from an alley; otherwise 20 feet

- b. Maximum height: 12 feet above the crown of any street abutting the property.
 - c. In no case shall a detached garage have any sleeping room, kitchen facilities or plumbing
- (b) Residential storage buildings. Residential storage buildings may be permitted as an accessory on a residential property. Only one such residential storage building is allowed, and the residential storage building shall be further regulated as follows:
 - (1) The residential storage building shall be used exclusively for storage of household items, and no mechanical equipment shall be operated within or attached to such building.
 - (2) The placement of a residential storage building shall require a building permit, meet all applicable building codes, and shall be properly anchored.
 - (3) All storm water runoff shall be directed and maintained on the property upon which the building is located.
 - (4) The residential storage building shall be located a minimum of 60 feet from the front property line and 20 feet from the secondary front yard, provided no residential storage building shall be permitted within the required yard for a waterfront yard.
 - (5) Residential storage buildings shall be subject to the following dimensional and required yard requirements.
 - a. Maximum size: 80 square feet in area.
 - b. Maximum height: Eight feet in height as measured from grade to the highest point on the structure.
 - c. Location: May be located along any side or rear property line, except in secondary front yards and waterfront yards as provided in paragraph (4) above; and must be separated at least six feet from any other accessory structure.
- (c) Special accessory structures. Special accessory structures include, but are not limited to, swimming pools, pool enclosures, decks, patio covers, gazebos, fountains, garden trellises and children's playground equipment. Tree houses are specifically excluded as special accessory structures.
 - (1) Swimming pools and spas may be permitted by the city and shall be regulated as follows:
 - a. Pool setbacks shall be measured from the edge of the water.
 - b. Swimming pools, spas and their accessory decks that will exceed two feet above grade shall meet all yard requirements for the district within which they are located. Other swimming pools and spas shall be regulated by paragraph c. below.

- c. Required yards: Front, secondary front and side yards shall be as required within the district for a principal structure

The required rear yard shall be nine feet; however, on a waterfront property when the pool is proposed closer than 20 feet to the seawall, the application shall be accompanied by plans and specifications prepared and sealed by a registered engineer showing how the seawall will be protected.

- (2) Screened pool enclosures may be permitted by the city and shall be regulated as follows:
 - a. Pool enclosures for swimming pools, spas and their accessory decks that will have a finished floor elevation in excess of two feet above grade shall meet all yard requirements for the district within which they are located. Other pool enclosures shall be regulated as follows:
 - b. Required yards: Front and side yards shall be as required within the district for a principal structure. The minimum rear yard shall be eight feet.
 - c. Maximum height: Pool enclosures within the setbacks required for principal structures may be constructed to the height allowed for the principal structure. For other pool enclosures, the maximum permitted height shall be 14 feet to the highest point of the enclosure
- (3) Decks and patios with a finished floor elevation no higher than two feet above grade, other than those associated with swimming pools as regulated in paragraph (1) preceding, shall be regulated as follows:
 - a. Required yards: Shall not encroach into any required front, secondary front or side yard and shall not encroach more than ten feet into any required rear yard
- (4) Deck and/or patio covers consisting of the covering material and the minimum support mechanism or structure necessary to ensure its wind loading stability may be permitted by the city; provided that no such patio cover shall be permitted to be initially constructed or later enclosed in such a manner that it could be construed as living space. Structural elements of such patio covers shall not be permitted to exceed the dimensions of the patio more than six inches in any direction. Up to a one-foot overhang may be permitted.
 - a. Required yards: Shall not encroach into any required front, secondary front or side yard and shall not encroach more than five feet into any required rear yard.
- (5) Gazebos may be permitted by the city under the following conditions:
 - a. Maximum size: 64 square feet in area.
 - b. Maximum height: 12 feet above grade to the highest point of the roof.
 - c. Required yards: Shall not encroach into any required front, secondary front or side yard and shall not encroach more than 15 feet into any required rear yard, except no gazebo shall be permitted to encroach into a required waterfront yard
- (6) Fountains and waterfalls may be permitted by the city as a decorative element of and shall be regulated as follows:
 - a. Maximum height: Five feet above grade.
 - b. Required yards: Shall not encroach into any required yard more than 15 feet.
- (7) Garden trellises shall be allowed without a permit, provided such trellis meets the following requirements:
 - a. Maximum height: Eight feet
 - b. Maximum width: Five feet, including walk through opening.
 - c. Maximum dimension front to back: 35 inches.

- d. Shall not encroach onto public sidewalks, streets or alleys.
- (8) Children's playground equipment shall be allowed without a permit, provided such equipment is located within the rear yard.
 - a. Children's playground equipment shall not exceed 12 feet in height.
- (9) Other special accessory structures which cannot be located in accordance with the requirements of the preceding may be permitted after review in accordance with Division 5 of this Code.
- (d) Satellite and amateur radio antennas. The City of St. Pete Beach recognizes that satellite and amateur radio antennas should be regulated in order to protect the health, safety and general welfare of the public. The city recognizes that these antennas pose special problems because of their unique size, orientation requirements, construction and design considerations that set them apart from roof-mounted antennas. The city, therefore, finds it necessary to set the following requirements in order to mitigate potential adverse construction and aesthetic impacts. Where any provision of this section is found to be in conflict with Chapter 131 of the St. Pete Beach Code of Ordinances, Chapter 131 shall prevail.

Small satellite receiving antennas, properly installed and associated with digital satellite television, or "DIRECTV," as an alternative to cable television shall be exempt from the provisions of this section, provided such satellite receiving antennas are no larger than 24 inches in diameter.

- (1) Otherwise, in all zoning districts, the following regulations apply:
 - a. Satellite and amateur radio antennas shall be considered accessory structures and shall be located in the rear yard and meet the following requirements:
 - Maximum height: 70 feet from grade
 - Required yards: The entire antenna shall meet the minimum side yard requirements for the district in which it is located and be at least 15 feet from the rear property line.
 - b. The antenna shall meet all manufacturer's specifications.
 - c. The antennas shall be non-reflective and their color shall blend in with the surroundings.
 - d. The antenna shall be installed and maintained in compliance with the requirements of the building code and electrical code. A building permit shall be required prior to construction.
 - e. No advertising or signage of any type is permitted on an antenna.
- (e) Portable storage units (PSU), as defined, shall be regulated as follows:
 - (1) A PSU shall not exceed eight feet in width, 16 feet in length and nine feet in height.
 - (2) A PSU shall be placed either on a driveway, approved parking area or in the buildable portion of the lot and shall not be placed in a public right-of-way except as allowed in subsection (3).
 - (3) When physical limitations of the property prevent locating the PSU within the areas designated in subsection (2), the police department may approve the placement of the PSU in a public right-of-way as follows:
 - a. The PSU may only be placed within an area approved for parking;
 - b. The public right-of-way shall be adjacent to the property using the PSU;
 - c. The PSU shall have safety reflectors on all sides of the container facing oncoming traffic;

- d. The PSU shall be removed within 72 hours of placement or the city may remove it at the PSU owner's expense;
 - e. Placement of the PSU shall not create any unsafe condition; and
 - f. The police department shall be authorized to place any other restriction deemed necessary to avoid creating a threat to the safety of persons or property.
- (4) PSUs shall not exceed the following duration of stay. An "event" shall mean the delivery and pickup of the PSU. Events shall be nonconsecutive.
- a. Residential use: A maximum of seven calendar days per event with a maximum of four events per dwelling unit per calendar year.
 - b. Nonresidential use: A maximum of seven calendar days per event, with a maximum of four events per calendar year per each nonresidential unit on a property. Longer term storage of up to one 30-day event per calendar year shall be allowed for a nonresidential unit, provided the PSU is placed in a designated parking area on the property, and the parking area is located so that it has the least visibility from adjoining street rights-of-way. Placement of a PSU for longer term storage only shall require submittal and approval of a site plan by the city.
- (5) The PSU shall have clearly posted on the exterior of the unit, the name, current phone number and address of the company providing the PSU, and the date the PSU was placed at the site.
- (6) The PSU shall be locked and secured by the owner or tenant of the unit or property at all times when loading or unloading is not taking place. Storage of hazardous materials is prohibited.
- (7) If the National Weather Advisory Service or other qualified weather advisory service identifies weather conditions which are predicted to include winds of 75 MPH or greater, every PSU shall be removed from all properties and placed in approved storage locations at least 24 hours prior to the predicted onset of such winds or as soon as reasonably practical if less notice is provided. Removal of a PSU under the provisions of this subsection shall not be considered an "event."

(f) The use of portable toilets shall be strictly prohibited, except in conjunction with an active building permit, and

- (1) Shall be regulated in accordance with Sec. 98-70 of the Code of Ordinances; and
- (2) Shall be removed from the premises immediately following the close of the building permit.
- (3) Violation of this chapter shall be declared to constitute a public nuisance and shall be processed in accordance with Chapter 46 of the Code of Ordinances.

**St. Pete Beach City Commission
Agenda Report**

Issue Considered: Ordinance No 2016-13 – Traffic and Vehicles

Date: September 13th, 2016

Prepared By: Jennifer Bryla – Community Development Director

Through: Wayne Saunders, City Manager

Summary of Issue: Proposed for your consideration is City-initiated amendment to Chapter 82 of the Code of Ordinances. The changes proposed are in response to changes that were made previously in April of this year. Specifically the changes are to allow for “C” hang tag parking permits, the removal of non-resident parking passes and some clarification regarding parking in the Lido Beach area and in the Belle Vista neighborhood. City Commission has also directed staff to remove the ability to allow commercial parking lots in Institutional Zoning Districts.

Requested Motion: I move to approve Ordinance No. 2016-13 on first reading as presented. (read title)

Attachments

- (1) **Exhibit B** – Staff Report
- (2) **Exhibit A** – Ordinance 2016-13
- (3) **Exhibit C** - Chapter 82 Code of Ordinances with changes in underline strikethrough

**Reviewed by the
City Manager**

WS

	St. Pete Beach City Commission 155 Corey Avenue St. Pete Beach, FL 33706 727-367-2735
9/13/2016	
Item Number Ordinance #2016-13 Type of Application Amendment to Chapter 82 of the Code of Ordinances Applicant City of St. Pete Beach Location City wide Project Planner(s) Jennifer Bryla, AICP, Chelsey Welden Requested Action Approval of Ordinance 2016-13 on first reading Staff Recommendation Approval Planning Board Recommended approval with presented changes 3-0 (Olhaber, Lott) City Commission First Reading (9/13/2016) Final Reading (10/11/2016)	ITEM SUMMARY: The City Commission amended the City's parking Ordinance (Chapter 82 of the Code of Ordinances) in March of 2016. That effort was undertaken in an effort to: 1) More clearly define the different types of parking permits issued by the City; 2) Simplify the posted times of restricted parking areas; and 3) Add application submittal requirements. With the amendment, a "C" parking permit was created. This new "C" permit was created for those areas generally described as east of Gulf Boulevard, west of Maritana Drive, south of 37th Avenue and north of the Pinellas Bayway. While a new parking permit was created, the ability to provide residents temporary "hang tags" was overlooked. The residents of the "C" area currently have no ability to have visitors park along the streets of their neighborhood. Providing residents hang tags is presently a City practice in "D" parking areas and for certain business in Pass-a-grille. The Ordinance also clarifies the parking areas in the Lido Beach subdivision. Some areas of the neighborhood had the ability to park in areas that were 

Findings In its review of the proposed application, staff has determined: 1. The proposed application is consistent with Florida Statutes. 2. The proposed application is consistent with the Pinellas County Regional Policy Plan. 3. The proposed application is consistent with the St. Pete Beach Comprehensive Plan. 4. The proposed application is consistent with the intent of the LDC.	prohibited by Ordinance. The presented amendment rectifies the discrepancy. The proposed Ordinance also removes the ability for a non-resident of St Pete Beach to purchase a beach parking permit. With the adoption of the revised Fee Ordinance (Ord 2016-12) in June 2016, the City Commission removed the ability for non-residents to buy a beach parking pass. As this ability has been removed the language must also be removed from the ordinance for consistency with Commission direction. Lastly, the Ordinance removes the ability for uses within an institutional zoning district to request conditional use approval for a commercial or off-premise parking lot. This ability was granted through Ordinance (Ord 2015-03) in May of 2015. The change of Ordinance 2015-03 resulted in a situation that caused great concern for the residents in District 4. As such it has been determined that removing the ability would be in the best interest of the City. This will return the Institutional zoning district's allowable conditional uses to those prior to the change in 2015. Specifically the Ordinance will allow for "C" hang tag parking permits, the removal of non-resident parking passes and some clarification regarding parking in the Lido Beach area and in the Belle Vista neighborhood. PUBLIC NOTICE: Notice of public hearing has been advertised as required by State Statutes. As of the date of this report, no oral or written comments have been received. Oral and written comments may be presented at the public hearing. COMPREHENSIVE PLAN/LAND DEVELOPMENT CODE: The proposed Ordinance is consistent with the City of St. Pete Beach's Comprehensive Plan, which does not regulate parking or give any guidance as to how parking regulations should be formulated. The proposed Ordinance is also consistent with the Land Development Code, which regulates the form and location of parking spaces, lots, and structures. Specifically, Division 23 (Off-Street Parking and Loading) provides dimensional standards for parking areas, as well as dictates the number of parking spaces required for each type of use. The goal of Chapter 82 of the Code of Ordinances is to compliment the regulations provided in Division 23 of the Land Development Code to make sure that business, residences, and visitors all have a place to park without conflict. PLANNING BOARD: The Planning Board heard Ordinance 2016-13 on August 16th, 2016 and provided a recommendation of approval to the City Commission with the following modification. The Planning Board added a change at the request of a resident to extend parking on only one side of the street the full extent of 41st Ave. The Planning Board's recommendation has been reflected in
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the attached Ordinance. The recommendation was unanimous 3-0 with member Olhaber making the motion and member Lott affirming.

STAFF RECOMMENDATION:

Upon review of the above guiding documents, staff recommends approval of Ordinance 2016-13 as presented.

Attachments

- (1) Exhibit A** – Ordinance 2016-13
- (2) Exhibit B** – Staff Report
- (3) Exhibit C** – Chapter 82, Code of Ordinances with edits indicated in underline/~~striketrough~~

ORDINANCE 2016-13

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF ST PETE BEACH, FLORIDA, AMENDING CHAPTER 82, TRAFFIC AND VEHICLES, OF THE CITY OF ST PETE BEACH CODE OF ORDINANCES, BY AMENDING SECTION 82-137 OF DIVISION 3 OF ARTICLE III RELATED TO PROHIBITED PARKING; AMENDING SECTION 82-202 REMOVING THE PROVISION FOR NON-RESIDENT PARKING PASSES; AND AMENDING SECTION 82-245, PROVIDING FOR “C” TEMPORARY HANG TAGS; AMENDING THE LAND DEVELOPMENT CODE SECTION 17.3 “ALLOWABLE CONDITIONAL USES” REMOVING (g) “PARKING LOTS, COMMERCIAL AND / OR OFF-PREMISE”; PROVIDING FOR AMENDMENT OF THE CITY PARKING MAPS; CORRECTING SCRIVENER’S ERRORS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission wishes to improve the traffic and parking control regulations pertaining to city streets and city-controlled parking areas within the city; 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;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF ST PETE BEACH, FLORIDA, IN SESSION DULY AND REGULARLY ASSEMBLED THAT:

SECTION 1. Section 82-137 of the Code of Ordinances is amended as follows:

(m) Parking on one side of the following city streets shall be prohibited at any time, as designated on the city parking maps:

1st Avenue between Gulf Way and Pass-A-Grille Way;

10th Avenue to 22nd Avenue between Gulf Way and Pass-A-Grille Way;

23rd Avenue to 30th Avenue between Sunset Way and Pass-A-Grille Way;

32nd Avenue between 1st Street West and Pass-A-Grille Way;

El Centro at the Don Vista Center;

West Maritana Drive between Alhambra Street and South Maritana Drive;

South Maritana Drive between West Maritana Drive and Granada Street;
Alhambra Street between West Maritana and West Debazan Avenue;
West Debazan Avenue between East Debazan and South Maritana;
Debazan Avenue between Casablanca and Alhambra Street;
East Debazan between Alhambra Street and South Debazan Avenue;
Alfonzo Street between West Maritana Drive and West Debazan Avenue;
Granada Street between East Debazan Avenue and East Maritana Drive;
Barcelona Street between Debazan Avenue and East Maritana Drive;
Casablanca Avenue between 37th Avenue and Pinellas Bayway;
East Maritana Drive between 37th Avenue and Pinellas Bayway;
Belle Vista Drive between 41st Avenue and Belle Vista Drive East;
~~Lido Drive between 1st Street East and Plaza Way;~~
36th Avenue between El Centro and East Maritana Drive;
41st Avenue between Belle Vista Drive and Poinsettia Drive;
46th Avenue between Gulf Boulevard and the east end of Lido Park;
49th Avenue;
51st Avenue between Gulf Boulevard and the beach;
51st Avenue between Gulf Boulevard and the east end;
55th Avenue between Aloha Drive and Leilani Drive;
Boca Ciega Isle Drive at the entrance;
58th Avenue between Gulf Boulevard and 2nd Street East;
64th Avenue between Gulf Winds Drive and 430 64th Avenue;
Gulf Winds Drive between 2nd St. East and 71st Avenue;

64th Avenue to 73rd Avenue between Sunset Way and Gulf Boulevard;

Sunset Way between 23rd Avenue and 24th Avenue;

Sunset Way between 25th Avenue and 26th Avenue;

Sunset Way between 29th Avenue and 30th Avenue;

Sunset Way between 64th Avenue and 67th Avenue;

1st Street West between 31st Avenue and 32nd Avenue;

Casablanca Avenue between 37th Avenue and Cabrillo Avenue; and

78th Avenue to 87th Avenue between Blind Pass Road and Boca Ciega Drive; and Corey Circle.

- (n) Parking on each side of the following city streets shall be prohibited at any time, as designated on the city parking maps:

Pass-A-Grille Way between 13th Avenue and 32nd Avenue;

14th Avenue to 20th Avenue between Pass-A-Grille Way and the east end;

30th Avenue between Sunset Way and the beach;

31st Avenue between Sunset Way and Pass-A-Grille Way;

2nd Street West;

Cabrillo Avenue;

West Maritana Drive between Casablanca Avenue and Alhambra Street;

Belle Vista Drive between 44th Avenue and 41st Avenue;

37th Avenue between Gulf Blvd. and east Maritana;

44th Avenue between Gulf Boulevard and Moody Street;

45th Avenue between Gulf Boulevard and 2nd Street East;

Lido Drive between 1st Street East and 2nd Street East

Punta Vista Drive;

Boca Ciega Isle Drive between Plaza Way and 520 Boca Ciega Isle Drive;

52nd Avenue between Gulf Boulevard and the beach;

55th Avenue between Gulf Boulevard and Aloha Drive;

Aloha Drive;

59th Avenue between Gulf Boulevard and Bimini Way;

Gulf Winds Drive between 2nd St. East and Gulf Blvd.;

64th Avenue between 1st Palm Point Street and 425 64th Avenue;

64th Avenue between Gulf Blvd. and Gulf Winds Drive;

67th Avenue between Gulf Blvd. and Gulf Winds Drive;

Sunset Way between 70th Avenue and 71st Avenue;

1st Street East between Lido Drive and 45th Avenue;

2nd St. East between Lido Drive and 45th Avenue; and

2nd St. East between 60th Avenue and Gulf Winds Drive.

SECTION 2.

Sec. 82-202. – “B” parking decals

- (a) “B” parking decals, exempting the holder from parking meter fees, may be issued to the following persons:
- (1) Any Resident of the city, as defined in Sec. 82-1, or nonresident owning property within the city may purchase a parking decal for a fee established by resolution of the city commission and listed in appendix A to this Code.
 - (2) ~~Any nonresident of the city may purchase a parking decal for a fee established by resolution of the city commission and listed in appendix A to this Code.~~
 - (3) City employees, board members and volunteers shall be provided with one free parking decal for their personal use by the City manager. Non-resident city employees may purchase one additional decal at the resident rate.

* * *

SECTION 3.

Sec. 82-245. – “C” residential parking permits.

- (a) A controlled parking residential area is hereby established, to include the streets listed in Sec. 82-137(v), generally described as the residential side streets on East Maritana Drive and Gulf Boulevard, Casablanca Avenue between 367th Avenue and Pinellas Bayway.
- (1) Any resident of the city, as defined in Sec. 82-1, who resides on and who has a vehicle registered to a “C” street as defined in Sec. 82-137(v) shall be allowed to purchase a “C” parking permit, in the form of a decal, for a fee established by resolution of the city commission and listed in appendix A to this Code.
- (2) “C” parking decals shall be valid from January 1 through December 31 of each year. The purchase price of a parking decal shall not be prorated or reduced if the parking decal is purchased after January 1.
- (3) Each dwelling shall also be allowed to purchase two temporary “C” hang tags per month for their visitors, not to exceed 3 consecutive months.
- (4) “C” hang tags shall be valid from the date of purchase to the same date of the next succeeding month, and shall not be purchased more than three months in advance. The date of purchase shall be plainly stamped on each permit.

SECTION 4. Division 17-3 of the Land Development Code shall be amended as follows:

Sec. 17.3. – Allowable conditional uses.

Subject to the provisions or restrictions contained in this section and elsewhere in this Code, allowable conditional uses in the INS Institutional District are as follows:

- (a) Places of worship with 100 seats or more in the main sanctuary.
- (b) Residential structures as an ancillary use to the institution.
- (c) Commercial docks - Classes B and C only.
- (d) Clubs, private and community service.
- (e) Schools, public, private or charter.
- (f) Social service agencies.
- ~~(g) Parking lots, commercial and/or off premise.~~

SECTION 5. This Ordinance shall be published in accordance with the requirements of law.

SECTION 6. This Ordinance shall become effective immediately upon final passage and adoption.

PASSED ON FIRST READING _____, a.d. 2016

PASSED ON SECOND AND FINAL READING _____, a.d. 2016

Deborah Schechner , MAYOR

FIRST READING: _____
PUBLISHED: _____
SECOND READING: _____
PUBLISHED: _____

Chapter 82 - TRAFFIC AND VEHICLES¹¹

Footnotes:

--- (1) ---

ARTICLE I. - IN GENERAL

Sec. 82-1. - Definitions.

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

Commuter vehicle means a motor vehicle parked in a residential area by a person who is not a resident of the designated residential area.

Controlled parking residential area means a contiguous or nearly contiguous area containing streets or parts thereof primarily abutted by property which has a specific residential zone designation on the official zoning map and which is designated for restricted residential parking by the city manager, pursuant to criteria and procedures established in this division.

Dwelling means a room or group of rooms forming a single independent habitable unit used for or intended to be used for living, sleeping, sanitation, cooking, and eating purposes by one family only; for owner occupancy or for lease; and containing independent kitchen, sanitary and sleeping facilities. A dwelling does not include motels, hotels, and other transient accommodation uses.

Resident means a person who owns or leases real property for at least (6) six consecutive months within the city, as evidenced by a form listed in Sec. 82-2.

Residential parking permit means a special permit issued under this division for the privilege of parking on a street designated as a "controlled parking residential area."

Cross reference— Definitions generally, § 1-2.

Sec. 82-2. Requirements for issuance of parking permits.

The following shall be required at the time of issuance:

- (a) A valid driver's license.
- (b) Proof of residency in one of the following forms shall be required for all annual parking permits:
 - (1) Voter Registration Card
 - (2) Real Estate Tax Bill
 - (3) Lease Agreement for a period of at least 6 consecutive months within the year of issuance
 - (4) Driver's License with current address
 - (5) Utility Bill with current address
 - (6) Three pieces of mail with current address
- (c) Proof of employment in one of the following forms shall be required for all annual parking permits for employees and owners of businesses in accordance with Sec. 82-202:
 - (1) A current paycheck stub with the applicant's name,
 - (2) A letter signed by the owner of the business stating the applicant is currently employed at that location.

- (3) A current business tax license issued by the City of St. Pete Beach that contains the applicant's name.
- (d) In the event that a resident cannot produce any of the above documents, the resident will immediately be referred to a supervisor who will assist the resident by looking for other possible ways to provide satisfactory proof of residency that may be approved by the Community Development Director.
- (e) Current vehicle registration shall also be required for issuance of all annual parking permits. Hang tags shall be exempt from this requirement.
- (f) Payment in accordance with Appendix A of this Code.

Sec. 82-3. - Penalty.

Except as otherwise provided, anyone violating the provisions of this chapter shall be punished according to the penalties set out in F.S. § 316.655.

Sec. 82-4. - Unattended motor vehicles.

No person driving or in charge of any motor vehicle, except a licensed delivery truck or other delivery vehicle making deliveries, shall permit it to stand unattended without first stopping the engine, locking the ignition and removing the key. No vehicle shall be permitted to stand unattended upon any perceptible grade without stopping the engine and effectively setting the brake thereon.

Secs. 82-5—82-29. - Reserved.

ARTICLE II. - SPECIFIC STREET REGULATIONS^[2]

Footnotes:

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Cross reference— Streets and sidewalks, ch. 74.

DIVISION 1. - GENERALLY

Sec. 82-30. - Traffic control devices.

All traffic control devices erected and in place on all city streets within the city as of April 1, 2006 shall be deemed valid for all purposes in the location where the same have been erected, and the violation of any such device by any person shall be deemed a violation of the applicable state control law pertaining to such device.

(Ord. No. 06-14, § 1, 4-25-06)

Sec. 82-31. - One way streets.

The following streets, roadways and avenues shall be designated as one way.

- (1) East Maritana Drive between 35th Avenue and 36th Avenue.
- (2) 22nd Avenue west bound between Gulf Way and Pass-A-Grille Way.
- (3) 16th Avenue west bound between Gulf Way and Pass-A-Grille Way.
- (4) 15th Avenue east bound between Gulf Way and Pass-A-Grille Way.
- (5) 9th Avenue east bound between Gulf Way and Pass-A-Grille Way.
- (6) El Centro south bound between 37th Avenue and 35th Avenue.
- (7) 10th Avenue westbound between Pass-A-Grille Way and Gulf Way.
- (8) Alley between 16th Avenue and 17th Avenue.

Secs. 82-32—82-60. - Reserved.

DIVISION 2. - SPEED LIMITS^[3]

Footnotes:

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Sec. 82-61. - Speed limits.

- (a) The applicable speed limit for all city streets within the city shall be 30 miles per hour for all commercial areas and 25 miles per hour for all residential areas, unless otherwise provided by ordinance.
- (b) Notwithstanding subsection (a) hereof, the following speed limits shall be applicable on the following city streets:

20 mph:	
Gulf Way	From 1st Avenue to 22nd Avenue
44th Avenue	From Gulf Boulevard to Poinsettia Drive
41st Avenue	From Belle Vista Drive to Poinsettia Drive
Belle Vista Drive	From 39th Avenue to Oleander Way

- (c) The city manager shall post appropriate speed limit signs that meet the requirements of state law for all speed limits established in this section. All speed limits in effect at the time of adoption of this section shall remain effective unless amended hereby or hereafter by ordinance. It shall be unlawful for any person to exceed any speed limit established under this section.

Secs. 82-62—82-94. - Reserved.

DIVISION 3. - WEIGHT LIMITS

Sec. 82-95. - Definitions.

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

Bus means any vehicle designed or operated for the transportation of persons, other than an ordinary automobile, station wagon, camper, motor home, truck as defined in this section or van with a capacity of carrying persons, rather than property, provided, further, that the carrying of luggage is not consistent with this definition.

Bus route means certain streets, as designated in this division, over and along which buses shall operate within the city during designated hours.

Deviating truck means any truck in the restricted vehicle classification which travels over a street other than a designated truck route.

Truck means any vehicle designed for the transportation of property in the following classifications:

- (1) Unrestricted vehicles (light/medium trucks) means pickups, vans and panels with a maximum length of 21 feet and a maximum gross vehicle weight (GVW) of 8,000 pounds and single-unit, single-rear-axle trucks with a maximum length of 35 feet and a maximum GVW of 35,000 pounds.
- (2) Restricted vehicles (heavy trucks) means single-unit, multi-rear-axle trucks with a maximum length of 40 feet and a maximum GVW of 60,000 pounds, including dumptrucks and concrete mixers, and all tractor-trailer and semitrailer combinations with a maximum length of 55 feet and a maximum GVW of 80,000 pounds.

Truck route means certain streets, as designated in this division, over and along which trucks in the restricted vehicle classification shall operate within the city during designated hours.

Sec. 82-96. - Truck routes and bus routes established; map.

There is established within the city a system of truck routes and bus routes as shown on a map on file in the office of the city clerk. Streets indicated as truck routes on the map, and no others, shall be used for truck traffic. The streets indicated as bus routes on the map, and no others, shall be used for bus traffic.

Sec. 82-97. - Posting of truck and bus routes; signs.

For the purpose of this division, the city manager shall cause truck routes to be clearly posted and shall cause bus routes to be clearly posted. The city manager is authorized to install appropriate signs along designated roadways to control truck operations and to control bus operations, in accordance with this division. Signs will conform to those shown in the Manual of Uniform Traffic Control Devices, and their use shall be as designated therein.

Sec. 82-98. - Enforcement; penalties.

Any person who shall violate this division shall be subject, upon conviction, to fine or imprisonment as provided in section 1-14. Such moneys, excluding those previously committed, shall be held in trust by the city for use in signing and for physical improvements to the city and to maintain facilities on the truck route system and on the bus route system.

Sec. 82-99. - Observance of truck routes and bus routes; exceptions.

- (a) All buses and all trucks in the restricted vehicles classification within the city shall be operated only over and along the bus routes and truck routes established pursuant to section 82-96.
- (b) This division shall not prohibit operation on streets of destination if authorized truck routes and bus routes are used until reaching the intersection nearest the destination point and such destination is proven upon request through possession of a valid and current delivery ticket or other dispatch order.
- (c) Authorized emergency vehicles are exempt from this division.
- (d) Detoured trucks on an officially established detour, if such trucks could lawfully be operated upon the street for which the detour is established, are exempted from this division.

Sec. 82-100. - Manner of utilization of bus routes and truck routes.

- (a) Bus traffic and truck traffic of outside origin. Bus traffic and truck traffic of outside origin shall be subject to the following:
 - (1) Inside destination point. All restricted buses and trucks entering the city for a destination point in the city shall proceed only over an established bus or truck route and shall deviate only at the intersection with the street upon which the traffic is permitted, nearest the destination point. Upon leaving the destination point, a deviating truck or bus shall return to the truck route by the shortest permissible route.
 - (2) Multiple inside destination points. All restricted buses and restricted trucks entering the city for multiple destination points shall proceed only over established bus routes or truck routes and shall deviate only at the intersection with the street upon which bus traffic or truck traffic is permitted, nearest the first destination point. Upon leaving the first destination point, a deviating truck or deviating bus shall proceed to other destination points by the shortest direction and only over truck routes or bus routes. Upon leaving the last destination point, a deviating truck or deviating bus shall return to the truck route or the bus route by the shortest permissible route.
- (b) Truck traffic or bus traffic of inside origin. Truck traffic or bus traffic of inside origin shall be subject to the following:
 - (1) Outside destination point. All restricted trucks or restricted buses on a trip originating in the city and travelling in the city for a destination point outside the city shall proceed to the nearest intersection of a designated bus route or a designated truck route and travel from that point to the city limits only over designated truck routes or designated bus routes.
 - (2) Inside designated points. All restricted buses or restricted trucks on a trip originating in the city and traveling in the city for destination points in the city shall proceed only over designated truck routes or designated bus routes.

Sec. 82-101. - Hours of operation; time of day restrictions.

Trucks and buses shall be able to travel upon truck routes or bus routes at all hours of the day unless duly authorized signs are installed limiting the hours of use on a particular street or portion of a street for either buses or trucks. Those streets which are designated as partially restricted bus routes or truck routes shall be off limits to trucks or buses in the restricted classification during the hours of 6:00 p.m. to 6:00 a.m. Any restricted truck or restricted bus attempting to utilize a partially restricted truck route or partially restricted bus route during a restricted time period shall be regarded as a deviating truck or as a deviating bus.

Secs. 82-102—82-130. - Reserved.

ARTICLE III. - STOPPING, STANDING AND PARKING^[4]

Footnotes:

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DIVISION 1. - GENERALLY

Sec. 82-131. - Parking at Don Vista Community Center.

- (a) The parking lot at the Don Vista Community Center shall be used for parking only by permit issued to persons who are using the community center. Persons not having a permit and using the community center are prohibited from parking in the center's parking lot.
- (b) The city shall post signs which provide, in some manner or form, that the parking lot at the Don Vista Community Center is reserved for parking for a vehicle whose operator has a permit and is using the community center. The signs may also provide for no parking for persons not using the community center.

Sec. 82-132. - Special restrictions for buses and taxicabs.

The operator of a bus, including a tour bus of any kind, nature or description, wherein passengers are carried through the city or a taxicab shall not stop, stand or park upon any street in any district at any place or at any time other than at a bus stop or taxicab stand, respectively. However, this section shall not prevent the operator of any such vehicle from temporarily stopping in accordance with other stopping, standing or parking regulations at any place for the purpose of and while engaging in the expeditious unloading or loading of passengers.

Sec. 82-133. - Parking on unimproved property.

- (a) It shall be unlawful for any person to park any motor vehicle on the unimproved property of another person where such property has been posted with a notice prohibiting parking. Any person who parks any motor vehicle on the unimproved property of another person shall have the burden of proving that permission or consent therefor has been granted, either by the owner of the property or by the city manager.
- (b) Penalties for violation of subsection (a) of this section shall be assessed in accordance with section 1-14.

Sec. 82-134. - Parking within marked parking stalls.

- (a) Parking restrictions. The following shall apply wherever the city has provided marked parking stalls, either upon city streets or upon city-maintained parking areas, except as provided in subsection (b) of this section:
 - (1) All vehicles shall only be permitted to park within the marked stalls which have been provided on such streets or parking areas.
 - (2) No vehicle shall be entitled to be parked in more than one stall at any one time, unless its overall length is greater than the length of one stall.
 - (3) A vehicle must be parked with all of its wheels inside the parked stall unless, due to overall length as provided in subsection (a)(2) of this section, the vehicle's overall length is greater than the overall length of the provided stall.
 - (4) Only two vehicles shall be parked within a single stall at any one time.
 - a. When the stall is metered parking, only a single meter fee is required; however, both occupants shall be responsible to ensure that the meter fee is paid.

- b. This subsection shall apply to both parallel and diagonal parking stalls.
- (5) The city manager may waive the restrictions of this section in order to allow permitted special events or under such other circumstances as are deemed appropriate in the sole discretion of the city manager.
- (b) Exceptions. The city maintains a municipal boatramp situated at West Maritana and Casablanca, in the area between 30th and 35th Avenues, where the city has marked single vehicle parking stalls and installed metered parking. The restrictions provided in subsection (a) of this section shall not be applicable to metered stalls situated in this area for vehicles towing an attached boat trailer. One vehicle with attached boat trailer may occupy two marked parking stalls and pay only a single meter fee subject to the following:
 - (1) The vehicle and trailer are physically connected in the manner normally used for towing.
 - (2) The vehicle and the trailer occupy no more than two adjacent parking stalls.
 - (3) The regular meter fee shall be paid into the meter installed where the motor vehicle is parked. When the owner or operator of a motor vehicle with a boat trailer in tow complies with subsections (b)(1) and (2) of this section, no additional simultaneous meter fee would be required for the meter serving the stall occupied by the boat trailer.
 - (4) This exception shall apply only to parallel parking stalls.

Sec. 82-135. - Parking in commercial district.

- (a) For the purpose of this section, the commercial business area is defined as Eighth Avenue in its entirety, east to west.
- (b) It shall be unlawful to park any vehicle between the hours of 8:00 a.m. and 8:00 p.m. on any day in any commercial business area for a period of longer than two hours where signs are officially posted. However, the city manager shall be authorized to further limit, restrict or prohibit parking within this area by the posting of official signs. The changing of the parked position of a vehicle from one parking space directly to another parking space within either side of the same street or roadway shall be deemed one continuous parking period. Vehicles displaying a valid "D" pursuant to section 82-239 of this chapter, city code permits are exempt from the limit of two hours.
- (c) The parking of any vehicle longer than the legal period of time as posted on official signs shall be unlawful and a violation of this section. No person shall cause, allow, permit or suffer any motor vehicle to be parked beyond the lawful or legal period of time permitted by subsection (a) of this section.

Sec. 82-136. - Parking of boats, campers and recreational and commercial vehicles on city rights-of-way.

The parking of boats, trailers, campers, recreational vehicles, commercial vehicles and trucks in excess of one ton cab weight shall be prohibited on any city rights-of-way between the hours of 12:00 midnight and 6:00 a.m. The city manager may waive this prohibition on a temporary basis where it is determined that such waiver is necessary.

Sec. 82-137. - Posted restricted parking zones.

- (a) The following city streets shall require a "D" permit for parking from 8:00 a.m. to 8:00 p.m. every on one side of the street, as designated on the city parking maps:
 - 1st Avenue between Gulf Way and Pass A Grille Way;
 - 12th Avenue thru 14th Avenue between Gulf Way and Pass A Grille Way;
 - 17th Avenue thru 20th Avenue between Gulf way and Pass A Grille Way;
 - 22nd Avenue between Gulf Way and Pass A Grille Way;

25th Avenue between Sunset Way and Pass A Grille Way;
 27th Avenue thru 30th Avenue between Sunset way and Pass A Grille Way;
 Sunset Way between 23rd Avenue and 24th Avenue;
 Sunset Way between 28th Avenue and 30th Avenue;
 1st Avenue West between 31st Avenue and 32nd Avenue;
 32nd Avenue between Sunset Way and the beach;
 South Maritana Drive between West Maritana Drive and Granada Street;
 Alhambra Street between West Maritana and West Debazan Avenue;
 West Debazan Avenue between East Debazan and South Maritana;
 Debazan Avenue between Casablanca and Alhambra Street;
 East Debazan between Alhambra Street and South Debazan Avenue;
 Alfonzo Street between West Maritana Drive and West Debazan Avenue;
 Granada Street between East Debazan Avenue and East Maritana Drive;
 Barcelona Street between Debazan Avenue and East Maritana Drive;
 Beach Plaza between 70th Avenue and 71st Avenue; and
 Pass-A-Grille Way between 7th Avenue and 3rd Avenue;
 18 parking spaces on the west side of Beach Plaza between 70th Avenue and 71st Avenue.

- (b) The following city streets shall require a "D" permit for parking from 8:00 a.m. to 8:00 p.m. every day on each side of the street, as designated on the city parking maps:

2nd Avenue to 5th Avenue;
 Sunset Way between 24th Avenue and 25th Avenue;
 Sunset Way between 22nd Avenue and 23rd Avenue;
 32nd Avenue between 1st Street West and the beach; and
 One parking space on the west side of Casablanca Avenue at Cabrillo Avenue.

- (c) The following city streets shall require a "D" permit for parking at any time every day on one side of the street, as designated on the city parking maps:

10th Avenue between Gulf Way and the alley before Pass-A-Grille Way;
 11th Avenue between Gulf Way and Pass-A-Grille Way;
 21st Avenue between Gulf Way and Pass-A-Grille Way;
 23rd Avenue between Sunset Way and Pass-A-Grille Way; and
 4 parking spaces on the south side of West Maritana Drive east of Casablanca Avenue;

- (d) The following city streets shall require a "D" permit for parking at any time every day on each side of the street, as designated on the city parking maps:
 6th Avenue between Gulf Way and Pass-A-Grille Way; and
 7th Avenue between Gulf Way and Pass-A-Grille Way.
- (e) The following city streets shall require a "B" permit for parking at any time every day on each side of the street, as designated on the city parking maps:
 42nd Avenue between Belle Vista Drive and Poinsettia Drive; and
 43rd Avenue between Belle Vista Drive and Moody Street.
- (f) The following city streets shall require a "B" permit for parking from 8:00 a.m. to 8:00 p.m. every day on one side of the street, as designated on the city parking maps:
 18 parking spaces on the west side of Beach Plaza between 70th Avenue and 71st Avenue.
- (g) The following city streets shall require an "E" permit for parking from 8:00 a.m. to 8:00 p.m. every day on one side of the street, as designated on the city parking maps:
 67th Avenue between Beach Plaza and Sunset Way; and
 70th Avenue between Gulf Boulevard and Sunset Way; and
 18 parking spaces on the west side of Beach Plaza between 70th Avenue and 71st Avenue.
- (h) The following city streets shall require an "E" permit for parking from 8:00 a.m. to 8:00 p.m. every day on each side of the street, as designated on the city parking maps:
 68th Avenue to 70th Avenue between Beach Plaza and Sunset Way.
 Beach Plaza between 70th Avenue and 71st Avenue
- (i) Parking in the locations designated on the following city streets shall be limited to thirty (30) minutes, as designated on the city parking maps:
 3 parking spaces on the west side Pass-A-Grille Way south from 9th Avenue;
 3 parking spaces on the north side of 10th Avenue west from Pass-A-Grille Way;
 1 parking space on the east side of the 800 block of Gulf Way;
 1 parking space on the east side of 1300 block of Gulf Way;
 1 parking space on the south side of 26th Avenue west of Pass-A-Grille Way;
 3 parking spaces on the north side of 32nd Avenue west of Pass-A-Grille Way; and the north side of the Don Vista Center.
 The north side of the Don Vista Center
- (j) Parking on each side of the following city street shall be limited to two (2) hours, between the hours of 8:00 a.m. and 6:00 p.m. every day, as designated on the city parking maps:
 8th Avenue between Gulf Way and Pass-A-Grille Way. Vehicles displaying a valid "D" Permit are exempt from the limit of two hours.
- (k) Parking in the main Don Vista Center parking lot shall be prohibited unless an event is scheduled by the City at the Don Vista Center.

- (l) Parking on the west side of Gulf Way between 9th Avenue and 10th Avenue shall be limited to employees of the public concession stand at the beach.
- (m) Parking on one side of the following city streets shall be prohibited at any time, as designated on the city parking maps:
 - 1st Avenue between Gulf Way and Pass-A-Grille Way;
 - 10th Avenue to 22nd Avenue between Gulf Way and Pass-A-Grille Way;
 - 23rd Avenue to 30th Avenue between Sunset Way and Pass-A-Grille Way;
 - 32nd Avenue between 1st Street West and Pass-A-Grille Way;
 - El Centro at the Don Vista Center;
 - West Maritana Drive between Alhambra Street and South Maritana Drive;
 - South Maritana Drive between West Maritana Drive and Granada Street;
 - Alhambra Street between West Maritana and West Debazan Avenue;
 - West Debazan Avenue between East Debazan and South Maritana;
 - Debazan Avenue between Casablanca and Alhambra Street;
 - East Debazan between Alhambra Street and South Debazan Avenue;
 - Alfonzo Street between West Maritana Drive and West Debazan Avenue;
 - Granada Street between East Debazan Avenue and East Maritana Drive;
 - Barcelona Street between Debazan Avenue and East Maritana Drive;
 - Casablanca Avenue between 37th Avenue and Pinellas Bayway;
 - East Maritana Drive between 37th Avenue and Pinellas Bayway;
 - Belle Vista Drive between 41st Avenue and Belle Vista Drive East;
 - ~~Lido Drive between 1st Street East and Plaza Way;~~
 - 36th Avenue between El Centro and East Maritana Drive;
 - 41st Avenue ~~from between Belle Vista Drive east to the end of the street and Poinsettia Drive;~~
 - 46th Avenue between Gulf Boulevard and the east end of Lido Park;
 - 49th Avenue;
 - 51st Avenue between Gulf Boulevard and the beach;
 - 51st Avenue between Gulf Boulevard and the east end;
 - 55th Avenue between Aloha Drive and Leilani Drive;
 - Boca Ciega Isle Drive at the entrance;
 - 58th Avenue between Gulf Boulevard and 2nd Street East;

64th Avenue between Gulf Winds Drive and 430 64th Avenue;
Gulf Winds Drive between 2nd St. East and 71st Avenue;
64th Avenue to 73rd Avenue between Sunset Way and Gulf Boulevard;
Sunset Way between 23rd Avenue and 24th Avenue;
Sunset Way between 25th Avenue and 26th Avenue;
Sunset Way between 29th Avenue and 30th Avenue;
Sunset Way between 64th Avenue and 67th Avenue;
1st Street West between 31st Avenue and 32nd Avenue;
Casablanca Avenue between 37th Avenue and Cabrillo Avenue;
78th Avenue to 87th Avenue between Blind Pass Road and Boca Ciega Drive; and Corey Circle.

- (n) Parking on each side of the following city streets shall be prohibited at any time, as designated on the city parking maps:

Pass-A-Grille Way between 13th Avenue and 32nd Avenue;
14th Avenue to 20th Avenue between Pass-A-Grille Way and the east end;
30th Avenue between Sunset Way and the beach;
31st Avenue between Sunset Way and Pass-A-Grille Way;
2nd Street West;
Cabrillo Avenue;
West Maritana Drive between Casablanca Avenue and Alahambra Street;
Belle Vista Drive between 44th Avenue and 41st Avenue;
37th Avenue between Gulf Blvd. and east Maritana;
44th Avenue between Gulf Boulevard and Moody Street;
45th Avenue between Gulf Boulevard and 2nd Street East;
Lido Drive between 1st Street East and 2nd Street East
Punta Vista Drive;
Boca Ciega Isle Drive between Plaza Way and 520 Boca Ciega Isle Drive;
52nd Avenue between Gulf Boulevard and the beach;
55th Avenue between Gulf Boulevard and Aloha Drive;
Aloha Drive;
59th Avenue between Gulf Boulevard and Bimini Way;
Gulf Winds Drive between 2nd St. East and Gulf Blvd.;

64th Avenue between 1st Palm Point Street and 425 64th Avenue;

64th Avenue between Gulf Blvd. and Gulf Winds Drive;

67th Avenue between Gulf Blvd. and Gulf Winds Drive;

Sunset Way between 70th Avenue and 71st Avenue;

1st Street East between Lido Drive and 45th Avenue;

2nd St. East between Lido Drive and 45th Avenue;

2nd St. East between 60th Avenue and Gulf Winds Drive.

- (o) Parking on one side of the following city streets shall be limited to the time for which payment of the parking fee has been made, between the hours of 8:00 a.m. and 8:00 p.m. every day, as designated on the city parking maps:

Pass-A-Grille Way between 1st Avenue and 7th Avenue;

Casablanca Avenue between Pinellas Bayway and Cabrillo Avenue;

51st Avenue between Gulf Boulevard and the beach;

67th Avenue between Beach Plaza and Sunset Way;

Sunset Way between 68th Avenue and 70th Avenue;

Gulf Winds Drive between 64th Avenue and 2nd St. East;

64th Avenue between Gulf Blvd. and Sunset Way;

Sunset Way between 64th Avenue and 66th Avenue;

66th Avenue between Gulf Blvd. and Sunset Way.

- (p) Parking on each side of the following city streets shall be limited to the time for which payment of the parking fee has been made, between the hours of 8:00 a.m. and 8:00 p.m. every day, as designated on the city parking maps:

Gulf Way;

Pass-A-Grille Way between 7th Avenue and 12th Avenue unless otherwise posted; and

Beach Plaza between 67th Avenue and 70th Avenue.

- (q) Parking on the north side of 10th Avenue between Gulf Way and Pass-A-Grille Way shall require a "D" permit for parking at any time every day, or shall be limited to patrons of the museum, unless otherwise posted, as designated on the city parking maps.

- (r) Parking on the following city streets and parking lots shall be limited as hereafter designated, as shown on the city parking maps:

Lazarillo Park-Parking shall be for park users only;

Lido Park-45th Avenue Lot-Parking shall be for park users only;

Lido Park-46th Avenue Lot-Parking shall be for park users only, with the exception of four parking spaces designated "B" Permit Required from 8:00 a.m. to 8:00 p.m.;

Don Boat Ramp-"D" Permit or "B" Permit required with attached boat trailer, or any vehicle with attached boat trailer subject to payment of designated parking fee from 8:00 a.m. to 8:00 p.m.;

County Park-Parking is subject to payment of designated parking fee at any time.

44th Avenue Parking Lot-Five parking spaces designated "B", "D", or "E" Permit required; Two parking spaces designated "B" Permit Required "3" hour limit; One parking space designated "3" hour limit.

Ron McKenney Park-Parking shall be for park users only;

Sunset Park - "B" Permit required from 8:00 a.m. to 8:00 p.m. on the waterfront side;

Egan Park/Captiva Circle

North side: No parking

East side: Two waterfront parking spaces designated "Car parking only 24 hour limit"; 16 waterfront parking spaces designated "Vehicle with attached boat trailer only" and subject to payment of designated parking fee at anytime. Parking fee and vehicle with boat trailer attached restriction waived during adult softball games for the six southernmost waterfront spaces.

South Side-East end of Captiva Circle: Four parking spaces designated "No vehicle with boat trailer attached parking at anytime." South Side of Captiva Circle-Designated "No Parking Anytime."

Egan Park gravel parking lot-"B" permit required for Vehicle with attached boat trailer."

Don Vista Parking Lot

South side: Don Vista parking only, and

North side: 15 spaces, Don Vista parking only.

- (s) Parking in the locations designated on the following city streets shall be limited to 15 minutes, as designated on the city parking maps:

Corey Avenue parking spaces directly in front of the Post Office.

- (t) The following city streets shall require a "B" permit for parking from 9:00 a.m. to 5:00 p.m. Saturdays, Sundays and holidays on one side of the street, as designated on the city parking maps:

Gulf Winds Drive between 64th Avenue and Bay St;

64th Avenue between Gulf Winds Drive and First Palm Point.

- (u) The following city streets shall require a "B" permit for parking from 9:00 a.m. to 9:00 p.m. Saturdays, Sundays and holidays on each side of the street, as designated on the city parking maps:

64th Avenue between 425 64th Avenue and the east end of 64th Avenue;

67th Avenue between Gulf Winds Drive and Bay St;

Bay St. between Gulf Winds Drive and 64th Avenue;

First through Fourth Palm Points Streets.

- (v) The following city streets shall require a "C" permit for parking at any time every day on one side of the street, as designated on the city parking maps:

37th Avenue between Gulf Blvd. and El Centro;
East Maritana Drive between 37th Avenue and Pinellas Bayway;
Casablanca Avenue between 37th Avenue and Pinellas Bayway;
Casablanca Avenue at Cabrillo Avenue; and
36th Avenue between Gulf Blvd and East Maritana Drive.

Secs. 82-138—82-165. - Reserved.

DIVISION 2. - ENFORCEMENT

Sec. 82-166. - Separate offenses for overtime or prohibited parking.

Any overtime parking or parking prohibited violation shall constitute a separate offense for every two hours that the motor vehicle remains in violation of such parking regulation. Any officer may ticket a motor vehicle parked in violation of this article or other city parking ordinances for each successive two-hour violation.

Sec. 82-167. - Notice on illegally parked vehicle.

- (a) Whenever any motor vehicle without driver is found parked, stopped or standing in violation of any of the restrictions imposed by ordinance, the officer finding such vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user. The officer shall conspicuously affix to such vehicle a traffic citation or notice in writing for the driver to answer the charge within such time specified on the traffic citation or notice and at such place as designated on the traffic citation or notice.
- (b) Any person issued a parking ticket by an officer shall be deemed to be charged with a noncriminal violation and shall comply with the directions on the ticket. A civil penalty in the amount set forth in section 82-171 of this chapter shall be imposed against the person issued the ticket. If payment is not received or a response to the ticket is not made within the time period specified on the ticket, the city shall notify the registered owner of the vehicle which was cited, by mail to the address given on the motor vehicle registration, of the ticket. Mailing the notice to this address shall constitute notification. Upon notification, the registered owner shall comply with the city's directive. Any person who fails to satisfy the city's directive shall be deemed to waive the right to pay the applicable civil penalty. Notwithstanding the foregoing, the city may take any action deemed necessary to collect any outstanding civil penalties against any person, in any manner allowed by law. The city manager or his/her designee may dismiss parking citations under certain extenuating circumstances. These circumstances may include, but are not limited to, an improperly displayed permit or meter receipt when a valid permit or receipt is later produced, disabled vehicle, verified official city business, ambulance transport, Sheriff's department undercover vehicles, utility service providers, or verified meter malfunction.
- (c) Any person who elects to appear before a designated official to present evidence shall be deemed to have waived his right to pay the civil penalty provisions of the ticket. The official, after a hearing, shall make a determination as to whether a parking violation has been committed and may impose a civil

penalty not to exceed \$100.00 plus court costs. Any person who fails to pay the civil penalty within the time allowed by the court shall be deemed to have been convicted of a parking ticket violation, and the court shall take appropriate measures to enforce collection of the fine.

Sec. 82-168. - Evidentiary presumption.

- (a) In any prosecution charging a violation of any section of this article or any ordinance governing the stopping, standing, parking or operating of a vehicle, proof that the particular vehicle described in the complaint was parked or operated in violation of any such ordinance or regulation, together with proof that the defendant named in the complaint was at the time of such parking or operating the registered owner of such vehicle, shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person who stopped, stood, parked or operated such vehicle at the point where and for the time during which such violation occurred.
- (b) The owner of a vehicle is responsible and liable for payment of any parking ticket violation unless the owner can furnish evidence that the vehicle was, at the time of the parking violation, in the care, custody, or control of another person. In such instances, the owner of the vehicle is required, within a reasonable time after notification of the parking violation, to furnish to the city an affidavit setting forth the name, address, and driver's license number of the person who leased, rented or otherwise had the care, custody or control of the vehicle. The affidavit submitted pursuant to this subsection shall be admissible in a proceeding charging a parking ticket violation and shall raise the rebuttable presumption that the person identified in the affidavit is responsible for payment of the parking ticket violation. The owner of a vehicle is not responsible for a parking ticket violation if the vehicle involved was, at the time, stolen or in the care, custody or control of some person who did not have permission of the owner to use the vehicle.

Sec. 82-169. - Parking violation hearings.

- (a) A hearing may be requested by the person receiving a citation under this division of the cited vehicle's registered owner for the purpose of presenting evidence before a traffic hearing officer concerning an alleged parking violation. Any person requesting a hearing shall execute a statement on a form prepared by the city indicating his or her willingness to appear at such hearing at a time and place specified thereon. If a hearing is not requested, in writing, within 15 days of the issuance of the citation, the right to a hearing shall be deemed waived and no further hearing on the violation shall be required. The city commission shall designate one or more hearing officers from time to time to conduct hearings as provided herein. Said hearing officers shall be attorneys, members in good standing of the Florida Bar and shall have been practicing law in the State of Florida for at least five years.
- (b) All hearings under this section shall be conducted insofar as practical in accordance with the Florida Evidence Code. However, the general nature of the hearing shall be conducted in an informal manner. All irrelevant, immaterial or unduly repetitious evidence shall be excluded, but all other evidence of a type commonly relied upon by reasonable and prudent persons in the conduct of their affairs shall be admissible whether or not such evidence would be admissible in a trial in the courts of Florida. Any part of the evidence may be received in written form and all testimony of parties and witnesses shall be made under oath. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding, unless it would be admissible over objection in civil actions. Any interested party or person may make application and upon good cause shown may be allowed by the hearing officer, in the reasonable exercise of such officer's discretion, to intervene in a pending proceeding. At the conclusion of the hearing, the hearing officer may dismiss the citation or issue an appropriate fine in accordance with this division. All orders shall be in writing and shall be signed and dated by the hearing officer. Such fine may be collected by the city in any manner allowable by law. An order of the hearing officer may be appealed by any party receiving an adverse ruling by filing a petition for writ of certiorari in the circuit court within 30 calendar days from the date the order was issued.

Sec. 82-170. - Notice of excessive parking violations to state.

The clerk of the court or the traffic violations bureau shall supply the state department of highway safety and motor vehicles with a magnetically encoded computer tape reel or cartridge or send by other electronic means data which is machine readable by the installed computer system at the department, listing persons who have three or more outstanding parking violations, including violations of F.S. § 316.1955 or F.S. § 316.1956. The state department of highway safety and motor vehicles shall mark the appropriate registration records of persons so reported. The provisions of F.S. § 320.03(8) shall apply to each person whose name appears on such list.

Sec. 82-171. - Fines for violations.

The following fines shall be charged for certain parking violations:

		After 15 days
(1) Overtime parking	\$30.00	\$45.00
(2) Improper parking	\$30.00	\$45.00
(3) Double parking	\$40.00	\$55.00
(4) No parking zone	\$30.00	\$45.00
(5) Motor running, unattended	\$30.00	\$45.00
(6) Keys in ignition	\$30.00	\$45.00
(7) Other	\$30.00	\$45.00
(8) Parking for space reserved for disabled persons:	\$255.00	\$270.00
(9) Parking in front of fire hydrant:	\$100.00	\$115.00
(10) Parking on streets or lots restricted to specific permit parking:	\$40.00	\$55.00

Secs. 82-172—82-200. - Reserved.

DIVISION 3. - METERED PARKING

Sec. 82-201. - Time limits.

When parking meters are erected on any public thoroughfare giving notice thereof, no person shall stop, stand or park a vehicle in any metered parking zone for a period of time longer than designated by the parking meters upon the deposit of a coin of United States currency of the designated denomination.

(Code 1960, § 24-27; Ord. No. 216, § 3; Code 1983, § 21-41(a); Ord. No. 85-47, § 1, 9-17-85)

Sec. 82-202. – “B” parking decals.

- (a) “B” parking decals, exempting the holder from parking meter fees, may be issued to the following persons:
 - (1) Any resident of the city, as defined in Sec. 82-1, or nonresident owning property within the city may purchase a parking decal for a fee established by resolution of the city commission and listed in appendix A to this Code.
 - ~~(2) Any nonresident of the city may purchase a parking decal for a fee established by resolution of the city commission and listed in appendix A to this Code.~~
 - (3) City employees, board members and volunteers shall be provided with one free parking decal for their personal use by the city manager. Non-resident city employees may purchase one additional decal at the resident rate.
- (b) Not more than two parking decals shall be issued per dwelling, as defined in Sec. 82-1, for any class of persons described in subsection (a) of this section. Decals shall not be transferrable.
- (c) Parking decals shall be valid from January 1 through December 31 of each year. The purchase price of a parking decal shall not be prorated or reduced if the parking decal is purchased after January 1.
- (d) The city manager shall establish rules and regulations regarding the use of parking decals.
- (e) Each owner and full-time or part-time employee of on-premise businesses located on a street south of 31st Avenue or located on Beach Plaza shall be permitted to purchase one (1) parking decal with valid proof of employment or ownership in a form listed in Sec. 82-2.

Sec. 82-203. - Parking permits.

- (a) Gulf Way and Eighth Avenue. “A” hang tag permits may be issued for Gulf Way and Eighth Avenue as follows:
 - (1) Each owner of real property legally used as a residence or lodging in Pass-a-Grille, which abuts a street upon which the city has installed parking meters along the frontage of that real property or Eighth Avenue is entitled to purchase a permit exempting the holder thereof from the payment of parking meter fees anywhere within the Pass-a-Grille area.
 - (2) Incorporated by reference in this subsection is exhibit B to this section, which was first adopted by Ordinance 2009-28. It is on file in the city clerk's office and is a survey of "permits needed" for houses and apartments having street addresses on Gulf Way from First Avenue to 22nd Avenue and Eighth Avenue. Each owner of real property as set forth in exhibit B shall be entitled to purchase, at a cost established by resolution of the city and listed in appendix A to this Code, the following:
 - a. A number of permits equal to one-half of the number of the indicated "permits needed" per house or apartment.
 - b. Additional permits up to the total number of units.
 - c. If a street address has only one unit, a permit may be purchased for that unit.
 - d. Notwithstanding the provisions of exhibit B as cited above, each property on Gulf Way is entitled to a minimum of two permits.

- (3) These permits shall be controlled in such a way to restrict their use only to the property owners and bona fide guests residing on the property subject to receipt of the permits.
- (4) Permits shall be valid for the period from January 1 through December 31 of each year or any part thereof. Permits shall be renewed annually, and the city official administering this subsection shall maintain books and records on the collection of fees and issuance of permits.
- (5) Only vehicles displaying a permit obtained under this subsection shall be exempt from parking meter fees in the areas designated by this subsection. Vehicles displaying the permits issued under this subsection shall be entitled to park without payment of meter fees at parking metered spaces within Pass-a-Grille only.
- (6) The city may adopt reasonable rules and regulations necessary for the administration and enforcement of this subsection and may amend the survey referred to in subsection

(a) This section from time to time as may be necessary or appropriate.

(b) Vehicles utilized by persons attending services at the Pass-a-Grille Community Church shall be exempt from parking meter fees on 16th Avenue in Pass-a-Grille on Sundays between the hours of 7:00 a.m. and 1:00 p.m., and at such other times as specifically authorized by the city manager.

The Pass-a-Grille Community Church may also purchase temporary "B" hang tags at the cost of \$2.00 per permit. These permits shall exempt persons attending services at the Pass-a-Grille Community Church from parking fees at meters on Sundays between the hours of 7:00 a.m. and 1:00 p.m.

Permits shall be valid for the period from January 1 through December 31 of each year or any part thereof. Only vehicles displaying a permit obtained under this subsection shall be exempt from parking meter fees at metered spaces and shall be valid at parking meters between First Avenue and Twenty-First Avenue.

(c) "B" Parking Permits for employees of on premise businesses in Pass-a-Grille shall be issued as follows:

- (1) The owner or his agents of any business operated on premises located only in the Pass-a-Grille area and south of 31st Avenue or the owner or his agents of any business operated on premises having frontage on Beach Plaza shall be entitled to purchase parking permits for full-time or part-time employees in the form of a decal. The cost of the permit shall be established by resolution of the city commission and is listed in appendix A to this Code.
- (2) Permits shall be valid from the date of purchase through December 31 of the same year. They shall not be prorated. The date of purchase shall be plainly stamped on each permit.
- (3) Permits shall be displayed in accord with regulations adopted by the city, and when so displayed shall exempt the holder thereof from parking meter fees only during those hours when the holder is actively engaged in his employment on the eligible premises.
- (4) The city shall adopt such reasonable rules and regulations as may be necessary to administer and to enforce this subsection.
- (5) To be eligible to obtain a parking permit in accord with this subsection, the applicant shall furnish the required documents listed in Sec. 82-2(c).
- (6) Any owner or his agent who permits use of the parking permits authorized in this subsection in violation of this subsection or in violation of any administrative rules or

regulations shall be denied eligibility to purchase such permits for a period of one year following a finding of such violation, after hearing before the city manager.

(d) "M" Hang Tag Permits for watersport businesses at Merry Pier. Operators of commercial watersports business, who possess a current and valid occupational license for such business at the Merry Pier, may purchase one-day parking permits from the city for resale at the same price to their legitimate customers. The cost of the permits shall be established by resolution of the city commission and is listed in appendix A to this Code. Proper display of such permit will only exempt the permit holder from payment of parking meter fees in Pass-a-Grille when engaged in a commercial watersport through a vendor at the Merry Pier for the date which appears on the face of the permit. The parking permit must be properly displayed.

(e) "E" Hang Tag Permits for Gulfwinds Condominium, Friendly Native Condominium and Ramar Apartments and Starlight Towers Condominium. Parking permits for Gulfwinds Condominium, Friendly Native Condominium, Ramar Apartments and Starlight Towers Condominium shall be obtained as follows:

(1) Issuance of permits shall be subject to the following:

a. The record title owner of a condominium unit at the Gulfwinds Condominium or Friendly Native Condominium or the lessee under written lease with a term of not less than one year for a unit at the Gulfwinds Condominium, Friendly Native Condominium, Ramar Apartments, or Starlite Towers Condominium may purchase one permit per each bedroom of the unit exempting the holder thereof from the payment of parking meter fees within the Upham Beach Area and shall allow the holder to park within spaces marked "B permit parking only" anywhere within the Upham Beach area, defined as the following: 6700-6900 Sunset Way; 6700-7000 Beach Plaza; 67th, 68th, 69th & 70th Avenues.

(2) The record title owner of a unit entitled to issuance of permits under this subsection may purchase permits at a cost established by resolution of the city commission and listed in appendix A to this Code.

(3) The holder of a permit shall allow it to be used only by himself or by his bona fide guests.

(4) Permits shall be valid for the period from January 1 through December 31 of each year. The purchase price shall not be prorated.

(5) The city may adopt reasonable rules and regulations deemed necessary for the administration and the enforcement of this subsection.

(6) The parking spaces which are marked 'B permit parking only' shall be restricted to the use by appropriate holders of the permits issued under this subsection between the hours of 8:00 a.m. and 8:00 p.m. every day.

(7) Any person who violates this subsection shall be penalized pursuant to section 1-14 relating to violations of city ordinances and relating to violations of persons illegally parked. Additionally, vehicles improperly parked may be towed and stored at the expense of the owner.

(f) "B" Hang Tag Permits for Pass-a-Grille businesses: Business owners with valid occupational licenses in the Pass-a-Grille area will be permitted to purchase two hang tag permits per year. These permits will be used by patrons of the businesses only during actual business hours. Fees for such permits are provided for in Appendix A Fee Schedule.

Sec. 82-204. - Waiver on Gulf Way and west side of Beach Plaza.

The city manager is authorized to waive the prohibition against parking at meters between 9:00 p.m. and 7:00 a.m. along Gulf Way and the west side of Beach Plaza when the city manager determines that such waiver is necessary to carry out a nonprofit civic or charitable event.

Sec. 82-205. - Rates generally.

Parking meter rates charged at all city parking meters shall be established by resolution of the city commission and are listed in appendix A to this Code.

Sec. 82-206. - Use of U.S. coins; damaging meters.

It is unlawful for any person to deposit or attempt to deposit in any parking meter anything other than a lawful coin of the United States or any coin that is bent, cut, torn, battered or otherwise misshaped. It is unlawful for any unauthorized person to remove, deface, tamper with, open, willfully break, destroy or damage any parking meter, and no person shall willfully manipulate any parking meter in such a manner that the indicator will fail to show the correct amount of unexpired time before a violation.

Sec. 82-207. - Manner of parking vehicle.

Every vehicle shall be parked wholly within the metered parking space for which the meter shows parking privilege has been granted and with the front end of such vehicle immediately opposite the parking meter for such space.

Sec. 82-208. - Free parking for special events.

The city commission may, by resolution, allow free parking at any or all of the metered parking spaces during special events or special occasions. The allowing of free parking for one special event or special occasion shall not constitute precedence for allowing free parking at any other time or for any other reason.

Secs. 82-209—82-235. - Reserved.

DIVISION 4. - RESIDENTIAL PARKING PERMITS

Sec. 82-237. - Findings of fact; declaration of public interest.

The city commission finds and declares that:

- (1) It is in the best interests of the residents of the city to reduce vehicular congestion on residential streets and to facilitate the efficient movement of traffic by providing for residential parking preference during certain hours of the day, within certain areas of the city which meet the criteria set forth in this division;
- (2) Residential permit parking regulation is necessary to promote the health, safety and welfare of the residents of the city by providing adequate parking spaces adjacent to or close by the places of residence of such residents;
- (3) It is in the public interest to:
 - a. Reduce hazardous traffic conditions resulting from the use of streets located within congested residential areas for the parking of vehicles by persons using such residential areas to gain access primarily to the sand beaches, but also to other places;
 - b. Protect those areas from excessive noise;
 - c. Protect the residents of those areas from unreasonable burdens in gaining access to their residences;

- d. Preserve the character of those areas as residential districts;
- e. Promote efficiency in the maintenance of these streets in a clean and safe condition;
- f. Preserve the value of the property in those areas;
- g. Preserve the safety of children and other pedestrians; and
- h. Promote traffic safety, clean air and the comfort, health, convenience and welfare of the inhabitants of the city.

Sec. 82-238. - Penalties.

Whoever violates this division shall be penalized pursuant to section 1-14 relating to violation of city ordinances, and persons illegally parked pursuant this division shall be fined in the manner provided in this chapter for illegal parking and their vehicles may be towed and stored at the owner's expense.

Sec. 82-239. - Designation of controlled parking residential areas.

The city manager is authorized to designate "controlled parking residential areas" by appropriate signs and the recording thereof on an appropriate city map or plat in which the parking of vehicles may be restricted on public streets at certain times during the day only to vehicles bearing a valid residential parking permit issued pursuant to this division. This authority shall be in addition to any other authority of the city to regulate the times and conditions of motor vehicles parking on public streets.

Sec. 82-240. - Eligibility and criteria for establishment of controlled parking residential areas.

- (a) A residentially zoned area shall be deemed eligible for designation as a controlled parking residential area for residential permit parking if parking therein is impacted by commuter vehicles during any hours of any day.
- (b) The following objective criteria are established to be used in evaluating the need for restricted parking in a residentially zoned area in accordance with this section. For an area, however big or small, to be eligible for residential permit parking, that area must meet the following criteria:
 - (1) During any period of the day, the number of vehicles legally or illegally parked or standing on the streets in the area is equal to 50 percent or more of the legal on-street parking capacity of the area. For purposes of this criterion, a legal parking space shall be 20 linear feet, measured parallel to the curb or pavement edge.
 - (2) During the same period as in subsection (b)(1) of this section, 25 percent or more of the vehicles parking or standing on the streets in the area are not registered in the name of persons residing in the area. For purposes of this criterion, the latest available information from the state department of highway safety and motor vehicles regarding registration of motor vehicles shall be used.
 - (3) In determining whether an area identified as impacted and eligible for residential permit parking shall be designated as a controlled parking residential area, the following factors shall be considered:
 - a. The local needs with respect to clean air and environment in residential areas.
 - b. The possibility of a reduction in total vehicle miles driven in the city.
 - c. The likelihood of alleviating traffic congestion, illegal parking and related health and safety hazards.
 - d. The proximity of public transportation to the residential area.
 - e. The desire and need of the residents for residential permit parking.
 - f. The need for parking regulation to maintain the residential character of the neighborhoods.

Sec. 82-241. - Procedure for determining controlled parking residential areas.

- (a) In order to determine whether a particular area should be designated as a controlled parking residential area, the city commission can request or the city manager may conduct, upon his own initiative or upon a petition of a majority of the households on a proposed residential block addressed to the city manager, a study to determine if the proposed area meets the criteria set forth in section 82-240. Following the study, the city manager shall determine whether to designate the proposed area under consideration as a controlled parking residential area or to remove the designation of a previously established controlled parking residential area. The city commission may also request the city manager to designate an area as a controlled parking residential area based upon a study previously conducted, if the criteria set forth in section 82-240 are met.
- (b) If the city manager finds the criteria to designate have been met in a controlled parking residential area during the hours between 9:00 a.m. and 5:00 p.m., he shall cause the regulation to be recorded upon an appropriate map of the city and retained permanently in the office of the city clerk. If the city manager finds the criteria to designate have been met in a controlled parking residential area between the hours of 5:00 p.m. and 9:00 a.m., the findings shall be submitted to the city commission for approval by resolution, and the city manager shall then cause the regulation to be recorded upon an appropriate map of the city and retained permanently in the office of the city clerk. In addition, the city manager shall cause parking signs to be erected upon public streets in the area, indicating the times, locations and conditions upon which parking shall be by permit only. When an area has been approved, designated and posted as a controlled parking residential area, it shall be unlawful and a violation of this section to park a vehicle in an area restricted to decal parking only, without having a valid residential parking permit displayed according to the administrative regulations.

Sec. 82-242. - Special parking permits.

- (a) Following the official designation of a controlled parking residential area, the city, through the Sheriff's department, shall issue appropriate residential parking permits. A permit shall be issued only to the owner or operator of a motor vehicle who resides in the controlled parking residential area.

Sec. 82-243. - Privileges and restrictions on permits.

- (a) The holder of a residential parking permit shall be permitted to stand or park a motor vehicle displaying the permit and operated by him in any designated residential controlled parking area during such times and places as the parking of motor vehicles therein is permitted. While a vehicle for which a residential parking permit has been issued is so parked, such permit shall be permanently affixed on the left rear bumper of the vehicle. A residential parking permit shall not guarantee or reserve to the holder of the permit a parking space within a designated controlled parking residential area.
- (b) A residential parking permit shall not authorize the holder to stand or park a motor vehicle in such places or during such times as the stopping, standing or parking of a motor vehicle is prohibited or set aside for specified types of vehicles, nor shall it exempt the holder from the observance of any traffic regulation within the controlled parking residential area.
- (c) No person, other than the permittee named on the permit, shall use the residential parking permit or display it on a vehicle operated or parked, and any such use or display by a person other than the permittee shall constitute a violation of this division by the permittee and by the person who so used or displayed such parking permit.
- (d) It shall constitute a violation of this division for any person to falsely represent himself as eligible for a residential parking permit or to furnish any false information to obtain a residential parking permit.
- (e) The city, is authorized to revoke the residential parking permit of any permittee found to be in violation of this division and, upon written notification thereof, the permittee shall surrender such

permit to the city. Failure, when so requested, to surrender a residential parking permit so revoked shall constitute a violation of this division.

- (f) Any permit issued under this division is nontransferable to another person or another vehicle.
- (g) The city, is authorized to adopt rules for the issuance of temporary parking permits to bona fide visitors and commercial service vehicles of residents of a designated controlled parking residential area. The fee for a temporary parking permit shall be established by resolution of the city commission and is listed in appendix A to this Code.
- (h) The city shall be authorized to adopt all reasonable rules and regulations necessary for the enforcement and administration of this division, including rules and regulations providing for specific time and day parking restrictions.

(Code 1983, § 21-52; Ord. No. 84-44, § 7, 9-5-84)

Sec. 82-244. – “D” residential parking permits.

- (a) A controlled parking residential area is hereby established, to include the streets listed in Sec. 82-137, generally described as the residential side streets in Pass-a-Grille and the surrounding area.
 - (1) Any resident of the city, as defined in Sec. 82-1, who resides on and who has a vehicle registered to a “D” street as defined in Sec. 82-137 shall be allowed to purchase a “D” parking permit, in the form of a decal, for a fee established by resolution of the city commission and listed in appendix A to this Code.
 - (2) Each dwelling shall also be allowed to purchase two temporary “D” hang tags per month for their visitors, not to exceed 3 consecutive months.
 - (3) “D” hang tags shall be valid from the date of purchase to the same date of the next succeeding month, and shall not be purchased more than three months in advance. The date of purchase shall be plainly stamped on each permit.
 - (4) “D” parking decals shall be valid from January 1 through December 31 of each year. The purchase price of a parking decal shall not be prorated or reduced if the parking decal is purchased after January 1.

Sec. 82-245. – “C” residential parking permits.

- (a) A controlled parking residential area is hereby established, to include the streets listed in Sec. 82-137(v), generally described as the residential side streets on East Maritana Drive and Casablanca Avenue between 37th Avenue and Pinellas Bayway.
 - (1) Any resident of the city, as defined in Sec. 82-1, who resides on and who has a vehicle registered to a “C” street as defined in Sec. 82-137(v) shall be allowed to purchase a “C” parking permit, in the form of a decal, for a fee established by resolution of the city commission and listed in appendix A to this Code.
 - (2) “C” parking decals shall be valid from January 1 through December 31 of each year. The purchase price of a parking decal shall not be prorated or reduced if the parking decal is purchased after January 1.
 - (3) Each dwelling shall also be allowed to purchase two temporary “C” hang tags per month for their visitors, not to exceed 3 consecutive months.

- (4) "C" hang tags shall be valid from the date of purchase to the same date of the next succeeding month, and shall not be purchased more than three months in advance. The date of purchase shall be plainly stamped on each permit.

Secs. 82-246—82-259. - Reserved.

DIVISION 5. - GENERAL PARKING PERMITS

Sec. 82-260. - Metered and non metered parking space permits.

The city manager shall be authorized to issue daily or monthly parking permits, which shall authorize the parking of a motor vehicle without the payment of meter fees at any city metered parking space except the "county beach access lot" or any non metered city parking space requiring the display of a "B" permit on the date(s) indicated on the permit. A "metered parking space" means any parking space for which payment is required by a parking meter or parking pay station. In order for the permit to be valid, it must be displayed prominently in the driver-side front window and be visible to the city enforcement officer. The fee for said permit shall be as provided in appendix A to this Code.

Secs. 82-261—82-270. - Reserved.

ARTICLE IV. - IMPOUNDMENT OF CERTAIN VEHICLES

Sec. 82-271. - Authorized.

- (a) Members of the Sheriff's department are authorized to remove a vehicle from the public property or a right-of-way to a place of impoundment maintained or contracted by the city when:
- (1) Any illegally parked vehicle is left unattended and constitutes an obstruction to traffic or a hazard to the public.
 - (2) Any illegally parked vehicle constitutes an obstruction to traffic or a hazard to the public and the person in charge of the vehicle, being present, refuses or fails to reasonably correct the situation by safely moving or having the vehicle safely moved.
 - (3) Any vehicle is illegally parked in an area clearly posted "tow away zone" in such a way that it is clear that the penalty for illegal parking is towing and impoundment of the vehicle.
 - (4) A vehicle is found in unsafe condition or without current registration tag or license plate.
 - (5) Removal is necessary in the interest of public safety because of fire, flood, storm or other emergency.
 - (6) The operator of any vehicle is taken into custody by the Sheriff's department and such vehicle would thereby be left unattended.
 - (7) The person in charge of any vehicle is incapacitated to such an extent as to be unable to provide for its custody or removal.
 - (8) Any vehicle is wrecked, dismantled, or inoperative.
- (b) When any vehicle has been left continuously parked and unmoved for a period of seven days, it may be presumed that such vehicle is being stored on public property, provided that such vehicle does not bear a current vehicle registration and valid city parking permit, showing an address immediately adjacent to the location where the vehicle is parked. Such storage is prohibited, and the vehicle may be impounded. The Sheriff's department shall place a parking citation charging "vehicle stored on

public property—will be impounded after 24 hours," on the vehicle for a period of 24 hours prior to actual impoundment.

Sec. 82-272. - Notice.

- (a) Whenever an officer removes a vehicle as authorized in this article and the officer knows or is able to ascertain the name and address of the owner of the vehicle, such officer shall immediately give or cause to be given notice in writing to such owner of the fact of such removal and the reasons therefor and of the place to which such vehicle has been removed. If any such vehicle is stored in an authorized garage, a copy of such notice shall be given to the proprietor of such garage.
- (b) Whenever an officer removes a vehicle under this article, the officer shall within 24 hours send or cause to be sent a report of such removal by electronic communication to the department of highway safety and motor vehicles and shall notify the proprietor of any authorized garage in which the vehicle may be stored. Such notice shall include a complete description of the vehicle, the date, time and place from which removed, the reasons for such removal, and the name of the garage or place where the vehicle is stored.

Sec. 82-273. - Fees.

There shall be levied a storage charge upon all motor vehicles impounded by the city and stored by the city on city-owned property. The fee shall be in an amount established by resolution of the city commission and listed in appendix A to this Code. In addition, a towing charge shall be levied on such vehicle.

Sec. 82-274. - Release.

No vehicle impounded in an authorized garage as provided in this article shall be released therefrom until the charges for towing such vehicle into the garage and storage charges have been paid. The charge for towing or removal of any such vehicle and storage charges shall be fixed by the city commission. Such charges shall be based upon a computation of all actual expenses entering into the current cost of such services. Such charges shall be posted for public inspection in the traffic violations bureau and in any authorized garage.

Sec. 82-275. - Sale of impounded vehicles.

- (a) If the owner of a motor vehicle impounded pursuant to this article fails or refuses to pay the towing or storage charge within 30 days of making claim to such property, title to such property shall vest in the city. The city may, after giving public notice, hold an auction in front of a municipal building. The city shall sell the motor vehicle to the highest bidder and thereafter shall apply the proceeds of the sale toward the indebtedness due to the city.
- (b) The city shall be entitled to hold a public auction in order to sell the motor vehicle at any time after 90 days has passed from the date that the motor vehicle was first impounded and stored on city-owned property as provided in F.S. § 705.104.

**St. Pete Beach City Commission
Agenda Report**

Issue Considered: Repeal Ordinance 88-36 and Section 118-28 of the City Code of Ordinances pertaining to antiquated public participation in the comprehensive planning process.

Date: September 13, 2016

Prepared By: Jennifer Bryla, Community Development Director

Through: Wayne Saunders, City Manager

Summary of Issue: The above two referenced ordinances are now superseded by state statutes in Chapters 163 and 166 pertaining to comprehensive planning and minimum requirements for public hearings and notices (which the city is currently following). Repealing Ordinance 88-36 and Section 118-28 is necessary to avoid confusion and to align the city's processes with current state law.

Requested Motion: I move to adopt ordinance 2016-20 (read title).

Attachments: Ordinance 2016-20

**Reviewed by the
City Manager**

WS

Ordinance 2016-20

AN ORDINANCE OF THE CITY OF ST. PETE BEACH, PINELLAS COUNTY, FLORIDA, PROVIDING FOR THE REPEAL OF ORDINANCE 88-36 AND SECTION 118-28 OF THE CITY'S CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of St. Pete Beach believes that it is in the best interest of the City to update its code regarding the content of public participation in comprehensive planning process; and

WHEREAS, the City adopted Ordinance 88-36 and Section 118-28 of the code of ordinances prior to adopting its first Comprehensive Plan pursuant to the newly enacted "Local Government Comprehensive Planning and Land Development Act (Chapter 163, part II, Florida Statutes), also formerly known as the "Growth Management Act"; and

WHEREAS, the contents of Ordinance 88-36 and Section 118-28 of the code or ordinances are no longer applicable, relevant, and enforceable because of numerous changes in Chapter 163 and 166, Florida Statutes, Rule 9J-5 of the Florida Administrative Code, the state land planning agency responsible for reviewing comprehensive plan adoption and amendments; and

WHEREAS, the City has adopted comprehensive plan and subsequent plan amendments in accord with state and local laws related to notice and public participation; and

WHEREAS, the City deems Ordinance 88-36 and Section 118-28 of the code of ordinances a holdover from early efforts to administer the now defunct Growth Management Act and desires to pass this ordinance to eliminate confusion with the legally binding processes found in Chapters 163 and 166, Florida Statutes.

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

SECTION 1. Recitals. The above recitals ("Whereas" clauses) are hereby adopted as legislative findings, purpose and intent of the City Commission.

SECTION 2. Chapter 118, Article II, Section 118-28 of the City of St. Pete Beach Code of Ordinances is hereby amended as follows:

Sec. 118-28. – Public participation in comprehensive planning process.

The city shall comply with all local ordinances and state statutes pertaining to public participation in the comprehensive planning process.

Underlined words constitute additions to the City of St. Pete Beach City Code, ~~strikethrough~~ constitutes deletions from the original, and asterisks (***) indicate an omission from the existing text which is intended to remain unchanged.

~~Ordinance No. 88-36, adopted September 20, 1988, which enacted provisions pertaining to public participation in the comprehensive planning process in conformance with the mandates of F.S. § 163.3161 et seq., is adopted by reference in this article. The ordinance is on file and available for inspection in the office of the city clerk.~~

~~(Code 1983, § 17-2.1)~~

SECTION 3. All ordinances or parts of ordinances, in conflict herewith are hereby repealed to the extent of any conflict with the Ordinance.

SECTION 4. 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 affect 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 5. Publication. This Ordinance shall be published in accordance with the requirements of law.

SECTION 6. Effective Date. This Ordinance shall become effective immediately upon final passage and adoption.

PASSED ON FIRST READING _____, a.d. 2016

PASSED ON SECOND AND FINAL READING _____, a.d. 2016

Deborah Schechner, MAYOR

FIRST READING: _____
PUBLISHED: _____
SECOND READING: _____
PUBLISHED: _____

I, Rebecca C. 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 _____ day of _____, 2016.

Underlined words constitute additions to the City of St. Pete Beach City Code, ~~striketrough~~ constitutes deletions from the original, and asterisks (***) indicate an omission from the existing text which is intended to remain unchanged.

Rebecca C. Haynes, City Clerk

APPROVED AS TO LEGAL FORM AND CORRECTNESS:

City Attorney
Andrew Dickman, Esq.

Underlined words constitute additions to the City of St. Pete Beach City Code, ~~striketrough~~ constitutes deletions from the original, and asterisks (***) indicate an omission from the existing text which is intended to remain unchanged.

AN ORDINANCE PROVIDING FOR PUBLIC PARTICIPATION IN THE COMPREHENSIVE PLANNING PROCESS FOR THE CITY OF ST. PETERSBURG BEACH, FLORIDA, IN CONFORMANCE WITH THE MANDATES OF CHAPTER 163, PART II FLORIDA STATUTES; PROVIDING FOR THE BROAD DISSEMINATION OF PROPOSALS AND ALTERNATIVES; PROVIDING FOR THE OPPORTUNITY FOR WRITTEN COMMENTS; PROVIDING FOR PUBLIC HEARINGS; PROVIDING FOR OPEN DISCUSSION; PROVIDING FOR COMMUNICATIONS PROGRAMS; PROVIDING FOR INFORMATION SERVICES; PROVIDING FOR CONSIDERATION OF AND RESPONSE TO PUBLIC COMMENTS; PROVIDING AN EFFECTIVE DATE; AND, REPEALING ALL PROVISIONS OF ORDINANCES OR RESOLUTIONS IN CONFLICT HERewith.

SECTION ONE (1).

WHEREAS, the Florida Legislature has enacted a Local Government Comprehensive Planning and Land Development Regulation Act (Chapter 163, Part II, Florida Statutes): which mandates the preparation of a comprehensive plan and unified land development code for all units of local government; and,

WHEREAS, it is the intent of the Legislature to reconfirm that Section 163.3161 through 163.3215 have provided and do provide the necessary statutory direction and basis for municipal and county officials to carry out their comprehensive planning and land development regulation powers, duties and responsibilities; and,

WHEREAS, Chapter 163.3181(1) F.S. establishes that it is the intent of the Legislature that the public participate in the comprehensive planning process to the fullest extent possible; and,

WHEREAS, Chapter 163.3181 (2), F.S., mandates that procedures be established which provide for broad dissemination of proposals and alternatives, opportunity for written comments, public hearings, provisions for open discussion, communications programs, information services and consideration of a response to public comments.

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of St. Petersburg Beach, Pinellas County, Florida that the procedures, and actions herein will be used whenever any comprehensive plan, or portion thereof of any land development regulation, or portion thereof are proposed for adoption.

SECTION 1.01. Title and Intent. This Ordinance shall be known as the Citizen Participation Process Ordinance for the City of St. Petersburg Beach, Florida.

SECTION 1.02. It is the intent of this Ordinance that all citizens affected by comprehensive planning and land development regulation proposals be encouraged to and be afforded the opportunity for input throughout the preparation and enactment process.

SECTION 1.03. It is further the intent of this Ordinance that the existing City of St. Petersburg Beach, Florida, Comprehensive Plan, Ordinance No. 81-19, shall remain in full force and effect until repealed by a new Comprehensive Plan and a new Land Development Code. The procedures for public participation and advertising shall be as specified in the above named ordinances until such time as the new Comprehensive Plan is ready for advertising and adoption.

SECTION 1.04. It is further the intent of this Ordinance that these procedures apply to the formal adoption process of the comprehensive plan, amendments to the comprehensive plan, preparation of the land development code and any amendments including regulation of land subdivision, open space provisions, drainage and stormwater management, floodplain development, environmentally sensitive areas, signage, parking, innovative land development regulations, impact fees, consideration of the Evaluation and Appraisal Report, and any other matters deemed appropriate by the City Commission of the City of St. Petersburg Beach.

SECTION 1.05. It is further the intent of this Ordinance that the terms "citizen participation" and "public participation" are synonymous and apply to affected persons, substantially affected persons and aggrieved or adversely affected parties as defined in Chapter 163.3184(1)(6), Chapter 163.3213(2)(a) and Chapter 163.3215(2), Florida Statutes, respectively.

SECTION 2.01. Definitions. Unless specifically noted otherwise or listed in this section, the definitions found in Chapter 163, Part II, Florida Statutes and Chapter 9J-5, Florida Administrative Code, are hereby adopted by reference.

SECTION 3.01. Notice Procedures. The City Clerk of the City of St. Petersburg Beach will advertise twice in a newspaper that is published at least five (5) days per week that a public hearing, public meeting, or public workshop, as the case may be, will be held to consider any of the matters described in Section 1.04. The advertisement will include an identification of who is holding the hearing, meeting or workshop as well as the date, time, place and general subject of the hearing, meeting or workshop and location where copies of the proposed matter may be reviewed. The advertisement will appear in a section of the newspaper other than the classified or legal sections, when necessary. The advertisement will encourage the public to provide written and/or verbal comments on the matters under

consideration. Workshops may be held without advertising provided a public announcement is made at a public meeting of the City of St. Petersburg Beach, Florida.

SECTION 3.02. The advertisements shall appear approximately fourteen (14) days prior to the hearing, meeting or workshop and not later than five (5) days prior to the hearing, meeting or workshop.

SECTION 3.03. In addition to the advertising requirements described above, a notice of the hearing, or meeting will be posted in a conspicuous place or places at the City Hall of St. Petersburg Beach, 7701 Boca Ciega Drive, St. Petersburg Beach, Florida 33706, at least seven (7) days prior to the hearing, meeting.

SECTION 3.04. The Office of the City Clerk of the City of St. Petersburg Beach, Florida will also provide a direct notice of any hearing, meeting or workshop to any group, agency or government that registers with the county to receive such notice at least fourteen (14) days prior to the hearing or meeting. The group, agency or government receiving such notice shall be responsible to notify their membership of the particulars involved.

SECTION 3.05. The Office of the City Clerk of the City of St. Petersburg Beach will conform to the applicable notice requirements for adoption of the comprehensive plan as described in Chapter 163.3184 and 163.3187, Florida Statutes.

SECTION 4.01. Local Planning Agency. Prior to City Commission of St. Petersburg Beach, approval, adoption and/or enactment as appropriate, of any matter listed in Section 1.04, the Local Planning Agency (designate who the City's LPA is here) shall hold at least one public hearing in conformance with the Notice requirements described in Section 3. The hearing may be continued to an announced time certain upon a majority vote. An agenda for the hearing shall be posted in or near the meeting room.

SECTION 4.02. The Local Planning Agency public hearing shall afford members of the public reasonable opportunity to present their views on any matter under consideration. The Chairman may, at his discretion, rule out-of-order public comments he deems repetitious or not germane to the matter under discussion.

SECTION 4.03. The sequence of activities regarding the matters under consideration shall be as follows:

- (a) Announcement of the matter for consideration by the

Chairman. Evidence that the requirements of Section 4.05 have been met will be supplied prior to continuing this matter.

(b) Presentation by the applicant or principal proponent of the matter.

(c) Presentation of staff reports/comments, if any, whether written or verbal. Written staff reports, if prepared, shall be provided to the Local Planning Agency, applicable agencies, proponents and any group registered pursuant to Section 3.05 at least seven (7) days prior to consideration.

(d) Comments from the proponents and opponents of the matter in as nearly equal proportions as possible. All speakers will be required to fill out address cards prior to commencement of public hearings so that an accurate record of participants can be maintained.

(e) Close public input except for direct questions as may be initiated by the member of the Local Planning Agency.

(f) Local Planning Agency discussion, debate and recommendation by majority vote prior to considering the next matter or adjournment.

SECTION 4.04. The Local Planning Agency shall transmit its recommendation on each matter decided to the Commission of the City of St. Petersburg Beach.

SECTION 4.05. The Local Planning Agency shall conclude consideration of the agenda not later than 11:00 P.M. unless a majority vote agrees to do so. Agenda items not considered at this date will be tabled for a time certain.

SECTION 5.01. Board of City Commissioners. Prior to transmittal of the City of St. Petersburg Beach Comprehensive Plan to the Florida Department of Community Affairs, the City Commission of the City of St. Petersburg Beach shall hold at least one public hearing to consider the recommendation pursuant to the notice requirements described in Section 3. The hearing may be continued to an announced time certain upon a majority vote. An agenda for the hearing shall be posted in, or near, the meeting room.

SECTION 5.02. The Commission of the City of St. Petersburg Beach public hearing shall afford members of the public reasonable opportunity to present their views on any matter under consideration. The Chairman may, at his discretion rule out-of-order public comments he deems repetitious or not germane to the matter under discretion.

SECTION 5.03. The sequence of activities regarding matters under consideration shall be as follows:

(a) Announcement of the matter for consideration by the chairman.

(b) Presentation by the applicant or principal proponent of this matter.

(c) Presentation of staff reports/comments, if any, whether written or verbal. Written staff reports, if prepared, shall be provided to City Commission of the City of St. Petersburg Beach applicable agencies, proponents and any group registered pursuant to Section 3.4. The recommendation of the Local Planning Agency shall also be presented in written or verbal form.

(d) Comments from the proponents and opponents of the matter in as nearly equal proportions as possible. All speakers will be required to fill out address cards prior to commencement of a public hearing so that an accurate record of participants can be maintained.

(e) Close public input except for direct questions as may be initiated by the member of the City Commission of the City of St. Petersburg Beach.

(f) City Commission of the City of St. Petersburg Beach discussion, debate and approval, adoption or enactment, as appropriate for the specific matter, by majority vote prior to considering the next matter; adjournment; or tabling for a time certain.

SECTION 6.01. Advisory Committees. The City Commission of the City of St. Petersburg Beach may, from time to time, appoint Advisory Committees to participate in the matters listed in Section 1.04.

SECTION 6.02. Advisory Committees shall be subject to the notice requirements described in Section 3.

SECTION 7. Executive Summary. As soon as practical after adoption of the Comprehensive Plan and the Land Development Code, an Executive Summary of each document shall be prepared and made available to the public at the cost of reproduction and handling.

SECTION 8.01. Effective Date. This Ordinance shall take effect upon receipt of official acknowledgment from the Department of State, State of Florida that it has been filed and does hereby repeal all ordinances or portion thereof in conflict herewith.

SECTION TWO (2). This Ordinance shall become effective immediately upon its final passage.

Passed on First Reading September 6, 1988

Passed on Final Reading September 20, 1988


MAYOR RON MCKENNEY

ATTEST:


ACTING CITY CLERK

CITIZENP.ORD

ORDINANCE NO. 83- 54

AN ORDINANCE ADOPTING AND ENACTING A NEW CODE OF ORDINANCES FOR THE CITY OF ST. PETERSBURG BEACH, PINELLAS COUNTY, FLORIDA; ESTABLISHING THE SAME; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING FOR THE MANNER OF AMENDING AND SUPPLEMENTING SUCH CODE; PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.

THE CITY COMMISSION OF THE CITY OF ST. PETERSBURG BEACH, PINELLAS COUNTY, FLORIDA, DOES ORDAIN:

Section One (1). That the Code of Ordinances, consisting of Chapters 1 to 24, each inclusive, is hereby adopted and enacted as "The Code of Ordinances, City of St. Petersburg Beach, Florida", which Code shall supersede all general and permanent Ordinances of the City adopted on or before August 2, 1983 to the extent provided in Section 1 hereof.

Section Two (2). That all provisions of such Code shall be in full force and effect from and after January 3, 1984, and all Ordinances of a general and permanent nature of the City, adopted on final passage on or before August 2, 1983, and not included in such Code or recognized and continued in force by reference therein, are hereby repealed from and after the effective date of such Code. Notwithstanding any of the provisions of such Code, all of the provisions of Laws of Florida, Chapter 57-1814, as amended, being the former City Charter, which became Ordinances pursuant to the Municipal Home Rule Powers Act or pursuant to Section 6.01 of the City Charter ratified by the electors of the City on March 2, 1975, are hereby repealed.

Section Three (3). That the repeal provided for in Section 2 hereof shall not be construed to revive any Ordinance or part thereof that has been repealed by a subsequent Ordinance which is repealed by this Ordinance.

Section Four (4). The violation of, or failure to comply with any provision of such Code shall constitute an offense against the City of St. Petersburg Beach, and where no specific penalty is provided therefor, shall subject the offender, upon conviction, to a fine not to exceed five hundred dollars (\$500.00), or imprisonment for a period not to exceed sixty (60) days, with or without hard labor or by both such fine and imprisonment as provided in Section 1-9 of such Code.

The judgment of any court of law imposing any fine, or fine and cost of prosecution, shall contain provision for a period of imprisonment in default of payment of same. The payment of fines and costs of prosecution may also be enforced by attachment summarily against the property of the delinquent.

In addition to the penalties above provided, any condition caused or permitted to exist in violation of any of the provisions of this Code or any Ordinance shall be deemed a public nuisance and shall be subject to abatement by the City, and each day that such condition continues shall be regarded as a new and separate offense.

Section Five (5). Any and all additions and amendments to such Code, when passed in such form as to indicate the intention of the City to make the same a part of such Code, shall be deemed to be incorporated in such Code, so that reference to such Code shall be understood and intended to include such additions and amendments.

Section Six (6). That in case of the amendment of any section of such Code for which a penalty is not provided, the General Penalty, as provided in Section 4 of this Ordinance and in Section 1-9 of such Code shall apply to the Section as amended, or in case such amendment contains provisions for which a penalty, other than the aforementioned general penalty, is provided in another section, it shall be held to relate to the section so amended, unless such penalty is specifically repealed therein.

Section Seven (7). Any Ordinance adopted after August 2, 1983, which amends or refers to Ordinances which have been codified in such Code, shall be construed as if they amend or refer to like provisions of such Code.

Section Eight (8). This Ordinance and the Code adopted hereby, shall become effective on the 6th day of February, 1984.

Passed on First Reading November 1, 1983

Passed on Final Reading December 6, 1983


MAYOR DAN L. JOHNSON

ATTEST:

CITY CLERK

ARTICLE I. IN GENERAL

Sec. 17-1. Definitions.

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

Comprehensive development plan: A long-range or master plan for the physical development of the city and those environs reasonably expected within the next twenty (20) years or so to become a physical part of the city either through annexation or a close interrelationship resulting from the normal and expected economic development of the area, such plan among other things to provide for present and future vehicular traffic and other transportation arteries and terminals; a well-ordered design for future use and reuse of land; order for the healthful and convenient location of population to prevent undue concentration in parts or under-population in others; the promotion of good civic design in buildings and structures, and useful and aesthetic arrangement of open spaces; efficiency in the location of public buildings; and wise and efficient expenditure of public funds for capital improvements of the physical facilities of the city, all features of said plan to be assembled and maintained in a document or series of documents and maps and other descriptive matter.

The official map: A map, but not the zoning map, including and designating certain features of the comprehensive plan that have been officially adopted by the city commission for enforcement through such powers and influence then available that the city is able to exercise in effecting the plan. Among other features, the official map may show existing rights-of-way, setback lines for future widening of street rights-of-way, and proposed sites for public parks, playgrounds, buildings, and other facilities.

Subdivision: A division of a lot, tract, or parcel of land, whether improved or unimproved, into two (2) or more lots or parcels of land, for the purpose, whether immediate or future, of transfer of ownership or development, or, if the establishment of a new street is involved, any division of such parcel, providing that any division of land

into parcels of more than three (3) acres not involving any change in street lines or public easements shall not be deemed to be a subdivision within the meaning of this chapter. The term includes a resubdivision as well as initial subdivision.

Subdivision ordinance: An ordinance, duly adopted by the city commission, regulating and establishing standards for the subdivision of land within the city.

Zoning plan: A legal document duly adopted by the city commission consisting of a written text and a zoning map regulating the use of land, the size, location and height of buildings, and the density of population within the city.
(Code 1960, § 2-17; Ord. No. 114, § 1; Ord. No. 412)

Sec. 17-2. Comprehensive plan adopted.

The city does hereby adopt by reference the comprehensive plan, as amended through the adoption date of this Code.

(Code 1960, § 2-21; Ord. No. 81-19, § 1; Ord. No. 89-25, § 1, 11-7-89)

State law references—Adoption of comprehensive plan, F.S. § 163.3161(6); amendment of comprehensive plan, F.S. § 163.3187.

Sec. 17-2.1. Public participation in comprehensive planning process.

Ordinance No. 88-36, adopted September 20, 1988, which enacted provisions pertaining to public participation in the comprehensive planning process in conformance with the mandates of Chapter 163, Part II Florida Statutes, is hereby adopted by reference. Said ordinance is on file and available for inspection in the office of the city clerk.

Sec. 17-3. City street name map.

(a) A street name map of the City of St. Pete Beach which shall include all legally established streets, street names, alleys, and other rights-of-way, whether established by plat, dedication or other method shall be prepared by the city and be maintained on file and available for inspection in the office of the city clerk.

**St. Pete Beach City Commission
Agenda Report**

Issue

Considered: Resolution No. 2016-13 approving the form of Economic Development Transportation Project Fund Agreement; authorizing the execution and delivery of the funding agreement by the City Manager providing ownership, operation, and maintenance for the upcoming Blind Pass Road Redesign project.

Date: September 13, 2016

Prepared By: Mike Clarke, Public Works Director

**Summary
Of Issue:**

This resolution will serve as the Cities commitment to enter into the above referenced funding agreement with Florida Department of Transportation to provide \$1,000,000 to the City of St. Pete Beach in aide of the Blind Pass Road Redesign and Reconstruction project.

This appropriation was approved by the Florida Legislative and the Governor as a part of this year state budget.

Further, the city will be resolved to providing ownership, operation, and maintenance of the project during after construction.

**Requested
Motion:**

“I move to approve to Resolution No. 2016-13 approving the form of Economic Development Transportation Project Fund Agreement; authorizing the execution and delivery of the funding agreement by the City Manager providing ownership, operation, and maintenance for the upcoming Blind Pass Road Redesign project.”

Attachments: Resolution No. 2016-13
FDOT Fund Agreement

**Reviewed by
City Manager:** WS

RESOLUTION NO. 2016-13

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF ST. PETE BEACH, FLORIDA APPROVING THE FORM OF ECONOMIC DEVELOPMENT TRANSPORTATION PROJECT FUND AGREEMENT (“FUNDING AGREEMENT”); AUTHORIZING THE EXECUTION AND DELIVERY OF THE FUNDING AGREEMENT BY THE CITY MANAGER PROVIDING FOR OWNERSHIP, OPERATION AND MAINTENANCE OF CERTAIN PROJECT IMPROVEMENTS; APPROVING CERTAIN ACTIONS IN FURTHERANCE OF THE FUND AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of St. Pete Beach (the “City”) and the Florida Department of Transportation (FDOT) desire to enter into an “Economic Development Transportation Fund Agreement” in the amount of \$1,000,000 for the “Blind Pass Road Redesign” (the “transportation project”); and

WHEREAS, the funding agreement provides conditions necessary for the release of the funds appropriated to the City by Chapter 2016-66, Laws of Florida for the transportation project, more particularly described in the funding agreement; and

WHEREAS, as part of the funding agreement, FDOT requires the City to execute this resolution, which will be an exhibit to the funding agreement, to memorialize and formally commit the City to all provisions of the funding agreement; and

WHEREAS, the City shall provide for ownership, operation and maintenance of the transportation project upon their completion; and

WHEREAS, the City believes it to be in its best interest to accept the FDOT funding for purposes of funding the transportation project by entering into the funding agreement; and

WHEREAS, the City Commission of the City of St. Pete Beach does herewith authorize the City Manager to execute the transportation agreement with FDOT.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF ST. PETE BEACH, FLORIDA:

Section 1. The recitals above are true and correct and are made a part of this Agreement.

Section 2. The City Commission of the City of St. Pete Beach reaffirms its authorization for the City Manager to execute the funding agreement with FDOT for the transportation project.

Section 2. The City Clerk of City of St. Pete Beach is hereby directed to send copies of this Resolution to the Florida Department of Transportation and all other persons as directed by the

City Commission or City Manager.

Section 3. This resolution shall take effect immediately upon adoption.

PASSED AND APPROVED by the City Commission of the City of St. Pete Beach on this day of _____, 2016.

ATTEST:

Rebecca Haynes, City Clerk

Deborah Schechner, Mayor

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION
ECONOMIC DEVELOPMENT TRANSPORTATION
PROJECT FUND AGREEMENT
(OFF-SYSTEM SPECIFIC APPROPRIATIONS)

This Economic Development Transportation Project Fund Agreement (Off-System Specific Appropriation) ("Agreement") is entered into this _____ day of _____, between the State of Florida, Department of Transportation ("FDOT" or "Department") and **City of St. Pete Beach** ("Agency"). FDOT and the Agency are sometimes referred to in this Agreement as a "Party" and collectively as the "Parties."

RECITALS

A. The Fiscal Year 2016-17 General Appropriations Act, Chapter 2016-66, Laws of Florida, provides the Agency with an appropriation of **\$1,000,000** from the amount in Specific Appropriation _____, Economic Development Transportation Projects for **Blind Pass Road Redesign**.

B. This Agreement provides conditions necessary for the release of the funds appropriated to the Agency by Chapter 2016-66, Laws of Florida. The transportation project is further described in **Exhibit "A"**, attached and incorporated in this Agreement ("Project").

C. The Agency is prepared to complete the Project at an estimated total cost of **\$5,731,000**.

D. FDOT is prepared to provide **\$1,000,000** under Financial Project Number **#439421-1** toward the total cost of the Project as set forth in Section 6.0 of the Agreement and the Schedule of Funding in **Exhibit "B"**, which is attached and incorporated in this Agreement.

E. The Agency by Resolution No. _____ dated the 13th day of September 2016, a copy of which is attached as **Exhibit "C"** and made a part of this Agreement, has authorized its officers to execute this Agreement on its behalf.

AGREEMENT

In consideration of the mutual covenants contained in this Agreement, the Parties agree as follows:

1.0 RECITALS: The recitals above are true and correct and are made a part of this Agreement.

2.0 TERM: The term of this Agreement shall commence upon full execution by both Parties (“Effective Date”) and continue through September 1, 2018, unless terminated at an earlier date as provided in this Agreement. If the Project is not completed within the time period allotted, this Agreement will expire on the last day of the scheduled completion as provided in this paragraph unless an extension of the time period is requested by the Agency and granted in writing by FDOT prior to the expiration of the Agreement. Expiration of this Agreement will be considered termination of the Project. Only Project costs incurred on or after the Commencement Date of this Agreement (as defined in paragraph 3.0 below) and on or prior to the termination date of the Agreement are eligible.

3.0 COMMENCEMENT: Unless terminated earlier, work on the Project shall commence no later than: the 1st day of March, 2017 or within 60 days of the issuance of the Notice to Proceed for the construction phase of the Project, whichever date is earlier (“Commencement Date”), and shall be completed on or before March 1, 2018. FDOT shall have the immediate option to terminate this Agreement should the Agency fail to meet either of the above-required dates.

If construction of the transportation Project does not commence within four (4) years of the date Chapter 2016-66, Laws of Florida, became effective, this Agreement and the Project are immediately terminated.

4.0 PROJECT DESCRIPTION: The Agency shall provide quantifiable, measurable and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The Project, identified as Financial Management Number #439421-1, and the quantifiable, measurable and verifiable units of deliverables are described more fully in **Exhibit “A”** which is incorporated in this Agreement.

5.0 NOTICES AND APPROVALS: All notices pertaining to this Agreement are in effect upon receipt by either Party, shall be in writing, and shall be transmitted either by personal hand delivery; United

States Post Office, return receipt requested; or, overnight express mail delivery. E-mail and facsimile may be used if the notice is also transmitted by one of the preceding forms of delivery. The addresses and the Agreement Administrators set forth below for the respective parties shall be the places where notices shall be sent, unless prior written notice of change of address is given.

FDOT:

**STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION
DISTRICT 7 ECONOMIC DEVELOPMENT TRANSPORTATION PROJECT FUND
COORDINATOR**

**ROGER ROSCOE
11201 NORTH MCKINLEY DRIVE
TAMPA, FLORIDA 33612-64456
PHONE: 813-975-6411**

AGENCY:

**Ian Wade, PE
Project Manager
City of St Pete Beach
155 Corey Ave
St Pete Beach, FL 33706
Tel: 727.363.9254**

All approvals referenced in this Agreement must be obtained in writing from the Parties' respective Administrators or their designees.

6.0 RELEASE OF FUNDS: Project funds made available by FDOT shall not be released until the following have been satisfied:

(a) The Agency has agreed by resolution to accept future maintenance and other attendant costs occurring after completion of the Project for the portion of the Project on the Agency's system and such resolution is attached and incorporated in this Agreement as **Exhibit "C"**;

(b) The Agency shall certify to FDOT that the Agency's design consultant and/or construction contractor has secured the necessary permits. If the Agency fails to provide such certification to FDOT by April 1, 2017, FDOT may, at its discretion, terminate this Agreement;

(c) The Agency shall invoice FDOT quarterly for actual costs incurred. The Agency shall review and approve all invoices, statements, or other related documents duly submitted to the Agency

by the Agency's design consultant or construction contractor. Invoices shall be submitted by the Agency to FDOT in detail sufficient for a proper pre-audit and post audit thereof, based on the quantifiable, measurable, and verifiable units of deliverables as established in Paragraph 4.0 above and **Exhibit "A"**. Deliverables must be received and accepted in writing by the pre-audit and approval by the Agency;

(d) Supporting documentation must establish that the deliverables were received and accepted in writing by the Agency and that the required minimum level of service to be performed based on the criteria for evaluating successful completion as specified in Paragraph 4.0 and **Exhibit "A"** has been met;

(e) FDOT will pay to the Agency, after receipt of a detailed invoice, an amount equal to the invoice received by the Agency from the Agency's consultant or contractor. The Agency must certify on the invoice that the costs from the consultant or contractor are valid, reasonable, necessary, and allowable and the costs have been incurred by the consultant or contractor prior to the date of the invoices. All invoices submitted to the Department must provide complete documentation, including a copy of the consultant's or contractor's invoice(s), to substantiate the cost on the invoice. Each quarterly invoice subsequent to the first invoice from the Agency must contain a statement from the Agency that the previous quarterly costs incurred by the consultant or contractor have been paid by the Agency to the consultant or contractor;

(f) Before using its own forces for any phase of the Project, the Agency shall provide FDOT with the opportunity to review and approve the qualifications of the Agency forces to be utilized. In the event the Agency proceeds with any phase the Project utilizing its own forces, the Agency will only be reimbursed for direct costs (this excludes general overhead);

(g) The Agency shall provide to FDOT certification and a copy of appropriate documentation substantiating that all required right-of-way necessary for the Project have been obtained; and

(h) Provide FDOT with written notification of either its intent to:

(i) Award the construction of the Project to a contractor which is the lowest and best bidder in accordance with applicable state and federal statutes, rules, and regulations. The Agency shall then submit a copy of the bid tally sheet(s) and awarded bid contract, or

(ii) Construct the Project utilizing existing Agency employees, if the Agency can complete said Project within the time frame in Section 3.0 of this Agreement.

(i) The Agency shall charge to the Project account all eligible costs of the Project except costs agreed to be borne by the Agency or its contractors and subcontractors. Costs in excess of the programmed funding or attributable to actions which have not received the required approval of FDOT shall not be considered eligible costs. All costs charged to the Project, including any approved services contributed by the Agency or others, shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers evidencing in proper detail the nature and propriety of the charges.

(j) Payment shall be made only after receipt and approval of goods and services unless advance payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes. If FDOT determines that the performance of the Agency is unsatisfactory, FDOT shall notify the Agency of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by FDOT. The Agency shall, within five days after notice from FDOT, provide FDOT with a corrective action plan describing how the Agency will address all issues of contract non-performance, unacceptable performance, failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan is unacceptable to FDOT, the Agency shall be assessed a non-performance retainage equivalent to 10% of the total invoice amount. The retainage shall be applied to the invoice for the then-current billing period. The retainage shall be withheld until the Agency resolves the deficiency. If the deficiency is subsequently resolved, the Agency may bill FDOT for the retained amount during the next billing period. If the Agency is unable to resolve the deficiency, the funds retained may be forfeited at the end of the Agreement's term.

(k) If, after Project completion, any claim is made by FDOT resulting from an audit or for work or services performed pursuant to this Agreement, FDOT may offset such amount from payments due for work or services done under any agreement which it has with the Agency owing such amount if, upon demand, payment of the amount is not made within 60 days to FDOT. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by FDOT.

(l) The Agency must submit the final invoice on the Project to the Department within 120 days after the completion of the Project. Invoices submitted after the 120-day time period may not be paid.

6.1 TRANSFER OF FUNDS:

Entities providing goods and services to FDOT should be aware of the following time frames. Upon receipt of the invoice, FDOT has 20 days to inspect and approve the goods and services. FDOT has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the goods or services are received, inspected, and approved.

If a payment is not available within 40 days, a separate interest penalty at a rate as established pursuant to Section 55.03(1), Florida Statutes, will be due and payable, in addition to the invoice amount, to the Agency. Interest penalties of less than one (1) dollar will not be enforced unless the Agency requests payment. Invoices that have to be returned to the Agency because of Agency preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the FDOT.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for entities who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516.

Payment shall be made only after receipt and approval of goods and services unless advance payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes. If FDOT determines that the performance of the Agency is unsatisfactory, FDOT shall notify the Agency of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by FDOT. The Agency shall, within five days after notice from FDOT, provide FDOT with a corrective action plan describing how the Agency will address all issues of contract non-performance, unacceptable performance, failure to meet the minimum performance levels, deliverable deficiencies, or

contract non-compliance. If the corrective action plan is unacceptable to FDOT, the Agency shall be assessed a non-performance retainage equivalent to 10% of the total invoice amount. The retainage shall be applied to the invoice for the then-current billing period. The retainage shall be withheld until the Agency resolves the deficiency. If the deficiency is subsequently resolved, the Agency may bill FDOT for the retained amount during the next billing period. If the Agency is unable to resolve the deficiency, the funds retained may be forfeited at the end of the Agreement's term.

6.2 USE OF FUNDS: Funds made available by FDOT pursuant to this Agreement shall be expended in a timely manner and solely for the purpose of the approved Project. No such funds shall be used for the purchase of any landscaping, mitigation planting, water and sewer lines, for any legal action against FDOT, or costs associated with preparation of the application for use of Economic Development Transportation funding. The Schedule of Funding, **Exhibit "B"**, is attached and incorporated in this Agreement.

6.3 ASSURANCES: As an inducement to the transfer of funds referred to in Section 6.1 above, the Agency certifies that, if initiated, the Project will be carried through to its completion and will not require the expenditure of any additional funds from FDOT. The Agency is liable for all cost overruns on the Project.

6.4 PROHIBITION OF LOCAL PREFERENCES IN PROCUREMENT OF CONSTRUCTION SERVICES: If the Project is procured pursuant to Chapter 255 for construction services and at the time of the competitive solicitation for the Project 50 percent or more of the cost of the Project is to be paid from state-appropriated funds, then the Agency must comply with the requirements of Section 255.0991, Florida Statutes.

7.0 DESIGN AND CONSTRUCTION STANDARDS AND REQUIRED APPROVALS:

(a) The Agency agrees to undertake the design, construction, and Consultant Construction Engineering Inspection ("CCEI") of the Project in accordance with all applicable federal, state and local statutes, rules and regulations, including Agency standards and specifications. A professional engineer, registered in Florida, shall provide the certification that all design and construction for the Project meets the minimum construction standards established by the Agency.

(b) The Agency understands that it is responsible for the preparation of all design plans for the Project. The Agency shall hire a qualified consultant for the design phase of the Project using the Agency's normal procurement procedures to perform the design services for the Project.

(c) Execution of this Agreement by both Parties shall be deemed a Notice to Proceed to the Agency for the design phase of the Project. Any work performed prior to the execution of this Agreement is not subject to reimbursement.

(d) The Agency will provide one (1) copy of the final design plans and specifications and final bid documents to FDOT's Construction Project Manager prior to commencing construction of the Project.

(e) The Agency shall hire a qualified contractor using the Agency's normal bid procedures to perform the construction work for the Project.

(f) Prior to commencing the construction work described in this Agreement, the Agency shall request a Notice to Proceed from FDOT's Construction Project Manager, **Roger Roscoe**, at **(813) 975-6411** or from an appointed designee. Any construction work performed prior to the issuance of the Notice to Proceed for construction is not subject to reimbursement.

(g) The Agency shall hire a qualified CCEI to perform construction oversight including the obligation to assure that any and all verification testing is performed in accordance with the 2010 Standard Specifications for Road and Bridge Construction, as amended from time to time. FDOT shall have the right, but not the obligation, to perform independent assurance testing during the course of construction of the Project. The CCEI firm shall not be the same firm as that of the Engineer of Record for the Project.

(h) The Agency shall require the Agency's contractor to post a payment and performance bond in accordance with Section 337.18(1), Florida Statutes.

(i) The Agency shall be responsible to ensure that the construction work under this Agreement is performed in accordance with the approved construction documents, and that it will meet all applicable Agency standards.

(j) Upon completion of the work authorized by this Agreement, the Agency shall notify FDOT in writing of the completion of construction of the Project; and for all design work that originally required certification by a Professional Engineer, this notification shall contain an Engineers Certification of Compliance, signed and sealed by a Professional Engineer, the form of which is attached hereto as **Exhibit “D”**. The certification shall state that work has been completed in compliance with the Project construction plans and specifications. If any deviations are found from the approved plans, the certification shall include a list of all deviations along with an explanation that justifies the reason to accept each deviation.

(k) The Agency must submit the final invoice to FDOT within one hundred eighty (180) days after the final acceptance of the Project.

(l) Upon completion of the Project, the Agency shall be responsible for the perpetual maintenance of the facilities on its system that are constructed under this Agreement. The terms of this provision shall survive the termination of this Agreement.

8.0 AVAILABILITY OF FUNDS: The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. In the event this Agreement is in excess of \$25,000 and has a term for a period of more than one year, the provisions of Chapter 339.135(6)(a), F.S., are incorporated:

"The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of 25,000 dollars and which have a term for a period of more than 1 year."

9.0 TERMINATION OF AGREEMENT: FDOT may terminate this Agreement upon no less than thirty (30) days notice in writing delivered in accordance with the Notices and Approvals provisions of Paragraph 5.0. In the event the Agency fails to perform or honor the requirements and provisions of this Agreement, the Agency shall return funds in accordance with Section 11.0 of this Agreement within thirty

(30) days of the termination of this Agreement. If the Agreement is terminated before performance is completed, the Agency shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed an amount which is the same percentage of the contract price as the amount of work satisfactorily completed is a percentage of the total work called for by this Agreement. All work in progress on the FDOT right-of-way will become the property of the FDOT and will be turned over promptly by the Agency.

9.1 TERMINATION REPORT: Upon termination prior to the expiration of this Agreement, the Agency will provide the following:

(a) Certification that the portion of the Project that has been completed is in compliance with the terms and conditions of this Agreement and meets minimum construction standards established in accordance with Section 336.045, Florida Statutes.

(b) A report which shall specify the following: (i) the total direct Project costs paid from funds made available by FDOT pursuant to this Agreement; and (ii) the balance of any unexpended Project funds.

10.0 EXPENDITURES IN VIOLATION OF AGREEMENT: Any Project funds made available by FDOT pursuant to this Agreement which are determined by FDOT to have been expended by the Agency in violation of this Agreement or any other applicable law or regulation shall be promptly refunded in full to FDOT. Acceptance by FDOT of any documentation or certifications, mandatory or otherwise permitted, that the Agency files shall not constitute a waiver of FDOT's rights as the funding agency to verify all information at a later date by audit or investigation.

11.0 LEGAL REQUIREMENTS:

(a) This Agreement is executed and entered into in the State of Florida and will be construed, performed, and enforced in all respects in strict conformity with local, state, and federal laws, rules, and regulations. Any and all litigation arising under this Agreement shall be brought in the appropriate court in Leon County, Florida, applying Florida law.

(b) If any term or provision of the Agreement is found to be illegal and unenforceable, the remainder of the Agreement will remain in full force and effect and such term or provision will be deemed stricken.

(c) The Agency shall allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the Agency in conjunction with this Agreement. Failure by the Agency to grant such public access shall be grounds for immediate unilateral cancellation of this Agreement by FDOT.

(d) The Agency shall comply with all federal, state and local laws and ordinances applicable to the work or payment for work thereof.

(e) The Agency and FDOT agree that the Agency, its employees, contractors, subcontractors, consultants, and subconsultants are not agents of FDOT as a result of this Agreement.

12.0 PUBLIC ENTITY CRIME: The Agency affirms that it is aware of the provisions of Section 287.133(2)(a), Florida Statutes. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list. The Agency agrees that it shall not violate Section 287.133(2)(a), Florida Statutes, and further acknowledges and agrees that any conviction during the term of this Agreement may result in the termination of this Agreement.

12.1 NON-RESPONSIBLE CONTRACTORS: An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied or have further been determined by FDOT to be a non-responsible contractor may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the Agency.

13.0 UNAUTHORIZED ALIENS: FDOT will consider the employment of unauthorized aliens, by any contractor or subcontractor, as described by Section 274A(e) of the Immigration and Nationalization Act, cause for termination of this Agreement.

14.0 NON-DISCRIMINATION: The Agency will not discriminate against any employee employed in the performance of this Agreement, or against any applicant for employment because of age, ethnicity, race, religious belief, disability, national origin, or sex. The Agency shall provide a harassment-free workplace, with any allegation of harassment given priority attention and action by management. The Agency shall insert similar provisions in all contracts and subcontracts for services by this Agreement.

The Agency affirms that it is aware of the provisions of Section 287.134(2)(a), Florida Statutes. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity. The Agency further agrees that it shall not violate Section 287.134(2)(a), Florida Statutes, and acknowledges and agrees that placement on the list during the term of this Agreement may result in the termination of this Agreement.

15.0 ATTORNEY FEES: Unless authorized by law and agreed to in writing by FDOT, FDOT will not be liable to pay attorney fees, interest, or cost of collection.

16.0 TRAVEL: There shall be no reimbursement for travel expenses under this Agreement.

17.0 PRESERVATION OF REMEDIES: No delay or omission to exercise any right, power, or remedy accruing to either Party upon breach or default by either Party under this Agreement, will impair any such right, power or remedy of either Party; nor will such delay or omission be construed as a waiver of any breach or default or any similar breach or default.

18.0 AUDIT AND MONITORING REQUIREMENTS:

(a) The administration of resources awarded through the Department to the Agency by this Agreement may be subject to audits and/or monitoring by the Department. The following requirements

do not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of state financial assistance or limit the authority of any state agency inspector general, the Auditor General, or any other state official. The Agency shall comply with all audit and audit reporting requirements as specified below.

1. In addition to reviews of audits conducted in accordance with Section 215.97, Florida Statutes, monitoring procedures to monitor the Agency's use of state financial assistance may include but not be limited to on-site visits by Department staff and/or other procedures including, reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to state financial assistance awarded through the Department by this Agreement. By entering into this Agreement, the Agency agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department, the Department of Financial Services (DFS) or the Auditor General.

2. The Agency, a nonstate entity as defined by Section 215.97(2)(m), Florida Statutes, as a recipient of state financial assistance awarded by the Department through this Agreement is subject to the following requirements:

i. In the event the Agency meets the audit threshold requirements established by Section 215.97, Florida Statutes, the Agency must have a State single or project-specific audit conducted for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. **Exhibit "E"**, which is attached and incorporated into this Agreement, indicates state financial assistance awarded through the Department by this Agreement needed by the Agency to further comply with the requirements of Section 215.97, Florida Statutes. In determining the state financial assistance expended in a fiscal year, the Agency shall consider all sources of state financial assistance, including state financial assistance received from the Department by this Agreement, other state

agencies and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.

ii. In connection with the audit requirements, the Agency shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2)(e), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.

iii. In the event the Agency does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, the Agency is exempt for such fiscal year from the state single audit requirements of Section 215.97, Florida Statutes. However, the Agency must provide a single audit exemption statement to the Department at FDOTSingleAudit@dot.state.fl.us no later than nine months after the end of the Agency's audit period for each applicable audit year. In the event the Agency does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, in a fiscal year and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the Agency's resources (i.e., the cost of such an audit must be paid from the Agency's resources obtained from other than State entities).

iv. In accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, copies of financial reporting packages required by this Agreement shall be submitted to:

Florida Department of Transportation
Office of Comptroller, MS 24
605 Suwannee Street
Tallahassee, FL 32399-0405
Email: FDOTSingleAudit@dot.state.fl.us

And

State of Florida Auditor General
Local Government Audits/342
111 West Madison Street, Room 401
Tallahassee, FL 32399-1450
Email: flaudgen_localgovt@aud.state.fl.us

v. Any copies of financial reporting packages, reports or other information required to be submitted to the Department shall be submitted timely in accordance with Section 215.97, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

vi. The Agency, when submitting financial reporting packages to the Department for audits done in accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date the reporting package was delivered to the Agency in correspondence accompanying the reporting package.

vii. Upon receipt, and within six months, the Department will review the Agency's financial reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate corrective action on all deficiencies has been taken pertaining to the state financial assistance provided through the Department by this Agreement. If the Agency fails to have an audit conducted consistent with Section 215.97, Florida Statutes, the Department may take appropriate corrective action to enforce compliance.

viii. As a condition of receiving state financial assistance, the Agency shall permit the Department, or its designee, DFS or the Auditor General access to the Agency's records including financial statements, the independent auditor's working papers and project records as necessary. Records related to unresolved audit findings, appeals or litigation shall be retained until the action is complete or the dispute is resolved.

3. The Agency shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued and shall allow the Department, or its designee, DFS or the Auditor General access to such records upon request. The Agency shall ensure that the audit working papers are made available to the Department, or its designee, DFS or the Auditor General upon request for a period of five years from the date the audit report is issued unless extended in writing by the Department.

19.0 LOBBYING: Funds may not be used for the purpose of lobbying the Florida Legislature, judicial branch, or any state agency, in accordance with Section 216.347, Florida Statutes.

20.0 MINORITY VENDORS: The Agency is encouraged to use small businesses, including minority and women-owned businesses as subcontractors or sub-vendors under this Agreement. The directory of certified minority and women-owned businesses can be accessed from the website of the Department of Management Services, Office of Supplier Diversity. The Agency shall report on a quarterly basis its expenditures with minority and women-owned businesses. The report shall contain the names and addresses of the minority and women-owned businesses; the aggregate dollar figure disbursed that quarter for each business; the time period; type of goods or services; and the applicable code. If no expenditures were made to minority or women-owned businesses, the Agency shall submit a statement to this effect.

21.0 INDEMNITY AND INSURANCE:

(a) The Agency agrees to include the following indemnification in all contracts with contractors, subcontractors, consultants, and subconsultants, who perform work in connection with this Agreement:

"The contractor/subcontractor/consultant/subconsultant shall indemnify, defend, save and hold harmless the State of Florida, Department of Transportation and all of its officers, agents or employees from all suits, actions, claims, demands, liability of any nature whatsoever arising out of, because of, or due to any negligent act or occurrence of omission or commission of the contractor/subcontractor/consultant/subconsultant, its officers, agents or employees."

(b) The Agency shall carry or require its contractor/subcontractor/consultant/subconsultant to carry and keep in force during the period of this Agreement a general liability insurance policy or policies with a company or companies authorized to do business in Florida, affording public liability insurance with combined bodily injury limits of at least \$100,000 per person and \$300,000 each occurrence, and property damage insurance of at least \$100,000 each occurrence, for the services to be rendered in accordance with this Agreement. In addition to any other forms of insurance or bonds required under the terms of the Agreement, when it includes construction within the limits of a railroad right-of-way, the Agency must provide or cause its contractor to provide insurance coverage in accordance with Section 7-13 of FDOT's Standard Specifications for Road and Bridge Construction, as amended.

(c) The Agency shall also carry or cause its contractor/subcontractor/consultant/subconsultant to carry and keep in force Worker's Compensation insurance as required for the State of Florida under the Worker's Compensation Law.

22.0 MODIFICATION OF AGREEMENT: In the event the Agency desires to modify any of the terms and conditions of this Agreement, the Agency shall make such request for modification in writing to FDOT at any time during the term of this Agreement. However, if the request for modification relates to changes in the Project commencement and/or Project completion dates, such request must be received by FDOT prior to the expiration of the current commencement or Project completion date. If such a request is made after the expiration of the above referenced date, FDOT shall have the option to terminate this Agreement.

23.0 E-VERIFY: The Agency:

(a) shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Agency during the term of the contract; and

(b) shall expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

24.0 INSPECTOR GENERAL: The Parties agree to comply with Section 20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with Section 20.055(5), Florida Statutes.

25.0 NON-ASSIGNMENT: The Agency shall not assign, sublicense, or otherwise transfer its rights, duties, or obligations under this Agreement without the prior written consent of FDOT, which consent will not be unreasonably withheld. Any assignment, sublicense, or transfer occurring without the required written approval will be null and void. FDOT will at all times be entitled to assign or transfer its rights, duties, or obligations under this Agreement to another governmental agency in the State of Florida, upon

giving prior written notice to the Agency. In the event that FDOT approves transfer of the Agency's obligations, the Agency remains responsible for all work performed and all expenses incurred in connection with this Agreement.

26.0 ENTIRE AGREEMENT: This instrument embodies the entire Agreement of the parties. There are no provisions, terms, conditions, or obligations other than those contained in this Agreement. This Agreement supersedes all previous communications, representations, or agreements, either verbal or written, between the parties. No amendment will be effective unless reduced to writing and signed by an authorized officer of the Agency and the authorized officer of FDOT or his/her delegate.

27.0 DUPLICATE ORIGINALS: This Agreement may be executed in duplicate originals.

The remainder of this page intentionally left blank.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date(s) below.

FDOT

State of Florida, Department of Transportation

By:_____

Print Name:_____

Title:_____

Date:_____

Legal Review:

See attached Encumbrance Form for date of
funding approval by Comptroller

AGENCY

By:_____

Print Name:_____

Title:_____

As approved by the Board on:

Attest: _____

Legal Review:

City Attorney

EXHIBIT “A”

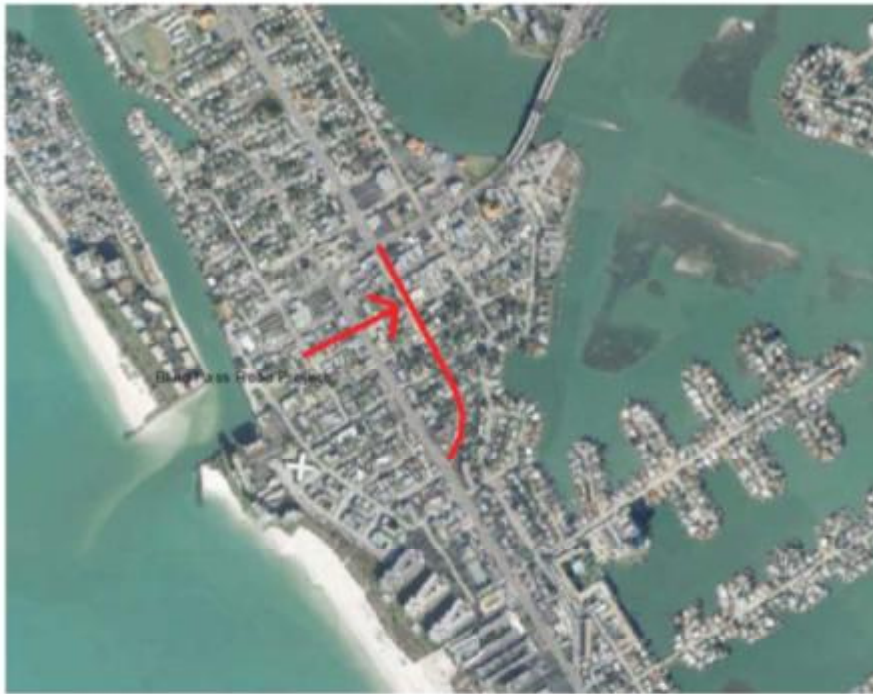
SCOPE OF SERVICES

Financial Management Number: #439421-1



PROJECT TITLE: Blind Pass Road Reconstruction Project

PROJECT LOCATION: The Project will be located within the City of St. Pete Beach in Pinellas County, Florida. The project is the section of Blind Pass Road between Gulf Boulevard and 75th Avenue.



PROJECT BACKGROUND: In 2012, the City of St. Pete Beach completed a comprehensive Stormwater Master Plan (SWMP) update in order to identify and prioritize flooding within the City and eliminate or reduce the problem. Drainage improvements in the Blind Pass Road neighborhood area were identified as one of the top priorities in the City. Based on this determination, the City completed a drainage analysis for the Blind Pass Road area on May 14, 2013. This analysis provided the recommendations which included drainage improvements to Blind Pass Road and adjacent drainage basins. Based on these recommendations, the City authorized Michael Baker, Inc. to begin design of the Blind Pass Road Stormwater Redesign (and roadway reconstruction) Project. Over the past few years, this project has seen several iterations of design alterations to address geographic limitations and the geometric and aesthetic suggestions of residents. The City anticipates the completion of design by the end of 2016.

The City has also secured a matching funds grant from Southwest Florida Water Management District (SWFWMD) for this project in the amount of \$311,734 for this project.

PROJECT DESCRIPTION: The Grantee intends to upgrade the existing infrastructure on Blind Pass Road to the recommendations provided in the Grantee's Stormwater Master Plan Update. While subject to final engineering design, the proposed stormwater improvements will consist of significantly upsizing the existing stormwater collection, conveyance, and discharge (outfall) system under Blind Pass Road to not only accommodate the flow at this location, but also provide adequate conveyance capacity to allow the City to tie adjacent drainage basins into the new pipes under Blind Pass Road, reducing flooding at all of these locations as described in the SWMP update (tie-in of the adjacent basins is not included in the scope of this project) and as depicted below:



These improvements will also include upsized outfall pipes and a nutrient/sediment reducing baffle box with tidal control device. Proposed improvements will provide a level of service that limits flooding during the 25-year, 24-hour storm event along with addressing tidal flooding issues and installing BMPs to improve water quality.

The project will also include the replacement of sanitary sewer, reclaimed water, and potable water lines under Blind Pass Road, undergrounding of overhead utility infrastructure, and complete roadway reconstruction to replace the badly deteriorated pavement. Below is a summary cost breakdown:

100 - STRUCTURES		\$1,639,125.00
200 - ROADWAY		\$1,356,364.25
300 - SIGNING & PAVEMENT MARKINGS		\$47,507.17
400 - LIGHTING		\$460,874.00
500 - SIGNALIZATION		\$100,000.00
600 - LANDSCAPE / PERIPHERALS		\$50,000.00
700 - UTILITIES		\$1,025,359.00
COMPONENT SUB-TOTAL		\$4,679,229.42
(102-1) MOT (Maintenance of Traffic)	5%	\$233,961.47
SUB-TOTAL		\$4,913,190.89
(101-1) MOB (Mobilization)	5%	\$245,659.54
SUB-TOTAL		\$5,158,850.43
PU (Project Unknowns)	5%	\$257,942.52
CONSTRUCTION TOTAL		\$5,416,792.96

A summary of the milestone project schedule is presented below:

DESCRIPTION	COMPLETION DATE
Complete Design and Permitting	October 31, 2016
Solicit Bids for Construction	November 15, 2016
Bidding and Contractor Selection	January 3, 2017
Commence Construction	March 1, 2017
Complete Construction	March 1, 2018
Record Drawings Complete	April 30, 2018

TASKS and DELIVERABLES:

Construction

Task Description: The Grantee will construct Blind Pass Road Reconstruction project in accordance with the final design and required permits. While construction activities described above and covered under this Agreement are the lone phase of construction for this project, the City does anticipate subsequent smaller projects to tie in the adjacent drainage basins to the system being constructed. Again, these tie-ins are not part of this project, but may warrant future requests for similar funding.

Bidding/Contractor Selection and Construction Engineering Inspection will be performed by City staff.

Interim Deliverables: Construction completed to date as described in this task, as evidenced by these interim deliverables:

- 1) Construction Engineering Inspection (CEI) reports for the period covered in payment request.
- 2) Signed acceptance of the completed work by the Grantee on Contractor's monthly Application and Certification for Payment.
- 3) Color photographs of on-going work representing time period covered in payment request.

The City's Application and Certification for Payment will include the following supporting documentation:

1. An itemized summary of the materials, labor, and/or services utilized during the period for which payment is being requested.
2. The summary should identify the nature of the work performed; the amount expended for such work; the name of the person/entity providing the service or performing the work; proof of payment of the invoices; and evidence of all work conducted for which a request for payment is being made.
3. Evidence may include references to any drafts or partially-complete designs, surveys, environmental documents and/or permit applications, drawings, and specifications (which must be made available upon request); and documentation demonstrating partial completion of construction activities.

Final Deliverables: Blind Pass Road Reconstruction project shall be constructed as described in this task, as evidenced by these final deliverables:

- 1) Record drawings (as-builts) and any required final inspection report(s) for the project;
- 2) Signed statement from a Florida Licensed Professional Engineer indicating construction has been completed in accordance with the design.

Performance Standard: The City anticipates that all interim and final deliverables will be reviewed to verify that that it meets this task description and that work is being performed in accordance with the Grantee's construction contract documents and specifications.

EXHIBIT “B”

SCHEDULE OF FUNDING Financial Management Number:

FUNDS AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Resources Subject to Section 215.97, F.S.:						
State Program Number	Funding Source	State Fiscal Year	CSFA Number	CSFA Title or Funding Source Description	Funding Amount	State Appropriation Category
<u>#439421-1</u>	STTF	FY2016/17	55.032	Economic Development Transportation Projects – Road Fund	\$1,000,000	088865
Total Award					\$1,000,000	

For each program identified above, the recipient shall comply with the program requirements described in the Catalog of State Financial Assistance (CSFA) [<https://apps.fldfs.com/fsaa/catalog.aspx>]. The services/purposes for which the funds are to be used are included in the Agreement scope of services/work. Any match required by the recipient is clearly indicated in the Agreement.

EXHIBIT “C”

AGENCY RESOLUTION

EXHIBIT “D”

NOTICE OF COMPLETION AND ENGINEER’S CERTIFICATION OF COMPLIANCE
NOTICE OF COMPLETION

ECONOMIC DEVELOPMENT TRANSPORTATION PROJECT FUND AGREEMENT

Between

THE STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION
and _____

PROJECT DESCRIPTION: _____

FINANCIAL MANAGEMENT ID #439421-1 _____

In accordance with the Terms and Conditions of the Economic Development Transportation Project Fund Agreement, the undersigned provides notification that the work authorized by this Agreement is complete as of _____, 20_____.

By: _____

Name: _____

Title: _____

ENGINEER’S CERTIFICATION OF COMPLIANCE

In accordance with the Terms and Conditions of the Economic Development Transportation Project Fund Agreement, the undersigned certifies that all work which originally required certification by a Professional Engineer has been completed in compliance with the Project construction plans and specifications. If any deviations have been made from the approved plans, a list of all deviations, along with an explanation that justifies the reason to accept each deviation, will be attached to this Certification. Also, with submittal of this certification, the Agency shall furnish FDOT a set of “as-built” plans certified by the Engineer of Record/CEI.

By: _____, P.E.

SEAL: Name: _____

Date: _____

EXHIBIT “E”

STATE FINANCIAL ASSISTANCE (FLORIDA SINGLE AUDIT ACT)

STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

SUBJECT TO SECTION 215.97, FLORIDA STATUTES:

Awarding Agency: Florida Department of Transportation
State Project Title: ECONOMIC DEVELOPMENT TRANSPORTATION PROJECTS – ROAD FUND
CSFA Number: 55.032
*Award Amount: \$1,000,000

*The state award amount may change with supplemental agreements

Specific project information for CSFA Number 55.032 is provided at:
<https://apps.fldfs.com/fsaa/searchCatalog.aspx>

COMPLIANCE REQUIREMENTS APPLICABLE TO STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT:

State Project Compliance Requirements for CSFA Number 55.032 are provided at:
<https://apps.fldfs.com/fsaa/searchCompliance.aspx>

The State Projects Compliance Supplement is provided at: <https://apps.fldfs.com/fsaa/compliance.aspx>