



TOWN OF LAUDERDALE-BY-THE-SEA

ROUNDTABLE

AGENDA ITEM REQUEST FORM

Development Services

Jeff Bowman

Department Submitting Request

Director

JB

3	<u>Commission Meeting Dates</u>	<u>Last date to turn in to Town Clerk's Office</u>	<u>Commission Meeting Dates</u>	<u>Last date to turn in to Town Clerk's Office</u>	<u>Commission Meeting Dates</u>	<u>Last date to turn in to Town Clerk's Office</u>
<input type="checkbox"/>	May 25, 2010	May 14 (5:00 p.m.)	<input type="checkbox"/> July 27, 2010	July 16 (5:00 p.m.)	<input type="checkbox"/> Oct 26, 2010	Oct 15 (5:00 p.m.)
<input type="checkbox"/>	June 8, 2010	May 28 (5:00 p.m.)	<input type="checkbox"/> Aug 24 2010*	Aug 13 (5:00 p.m.)	<input type="checkbox"/> Nov 9, 2010	Oct 29 (5:00p.m.)
<input checked="" type="checkbox"/>	June 23, 2010	June 11 (5:00 p.m.)	<input type="checkbox"/> Sept 14, 2010	Sept 3 (5:00 p.m.)	<input type="checkbox"/> Nov 23, 2010	Nov 12 (5:00p.m.)
<input type="checkbox"/>	July 13, 2010	June 2 (5:00 p.m.)	<input type="checkbox"/> Sep 27, 2010	Sept 17 (5:00 p.m.)	<input type="checkbox"/> Dec 14, 2010	Dec 3 (5:00p.m.)
			<input type="checkbox"/> Oct 12, 2010	Oct 1 (5:00p.m.)		

* Subject to change

NATURE OF AGENDA ITEM

- | | | |
|---|--|--|
| <input type="checkbox"/> Presentation | <input type="checkbox"/> Resolution | <input type="checkbox"/> Manager's Report |
| <input type="checkbox"/> Public Safety Report | <input type="checkbox"/> Quasi Judicial | <input type="checkbox"/> Attorney's Report |
| <input type="checkbox"/> Consent Agenda | <input type="checkbox"/> Old Business | <input type="checkbox"/> Other |
| <input type="checkbox"/> Ordinance | <input checked="" type="checkbox"/> New Business | |

SUBJECT TITLE: Encroachment Permits for Flags in the Right-of-Way

EXPLANATION: Earlier this year, Code Enforcement was asked by the operator of a dive shop what permits were required to install a dive flag on the outside wall of his business. The Town Code permits a dive flag in the business zoning districts for a dive shop, in Section 30-508.(c) of the Sign Code, and a sign permit is required.

Since the front of the dive store is on the property line, the flag would encroach into the right-of-way (ROW) and Section 17-9 of the Code (**Exhibit 1**) requires an encroachment permit, which can be administratively approved by the Town Manager. The Town does not charge a fee to process an application for an encroachment permit. Among other requirements, Section 17-9(2).d requires the holder of the encroachment permit to have \$1,000,000 in general liability insurance with the Town named as an additional insured and Section 17-9.(3) requires a signed statement from the permit holder "...to indemnify, defend and hold harmless..." the Town.

The dive shop owner inquired if the properties with existing flags that encroached into the ROW have the required encroachment permit. Since we enforce the code equally, we conducted a survey and found seven properties with flags in the ROW, all of which need encroachment permits. We have approached these owners and requested that they obtain an encroachment permit to continue displaying flags (or any other items) in the ROW.

Of the seven properties, five had non-commercial flags (American flags). As you may be aware, non-commercial flags are defined not to be signs in the Sign Code (Section 30-507, definition of Signs). As such, they do not require sign permits. The Code does define by zoning district the total number of such flags that can be installed on a property.

Commission Memorandum
Page 2

STAFF RECOMMENDATION:

Since properties often fly noncommercial flags around holidays, staff asks for the Commission's concurrence to administratively allow the display of noncommercial flags without obtaining an encroachment permit, for periods not to exceed sixty (60) days during a calendar year.

BOARD/COMMITTEE RECOMMENDATION: N/A

FISCAL IMPACT AND APPROPRIATION OF FUNDS:

- | | |
|---|--|
| <input type="checkbox"/> Amount \$ _____ | <input type="checkbox"/> Acct # _____ |
| <input type="checkbox"/> Transfer of funds required | <input type="checkbox"/> From Acct # _____ |
| <input type="checkbox"/> Bid | <input type="checkbox"/> Grant <input type="checkbox"/> Amount represents matching funds |

Town Attorney review required
 Yes No

Town Manager's Initials: CA

Attachment

Sec. 17-9. Obstructing parks, streets, or other public property; permission required.

It shall be unlawful for any person to encroach upon, obstruct or enclose any street, park or other public property, or any part or portion thereof, without the written approval of the Town Manager, based upon review of an application and a finding that all of the following requirements have been met:

- (1) The owner, owner's representative, or tenant of the abutting property seeking to encroach upon, obstruct or enclose the public area shall apply for an encroachment permit. The application shall be in a form determined by the Town Manager.
- (2) The application shall include or be accompanied by:
 - a. An accurate, legible and to scale 8½" x 11" drawing depicting the layout and dimensions of the existing public area, including any existing and proposed encroachments, and the abutting private property. This drawing shall also depict the location, size and number of any tables, chairs, steps, trees, parking meters, bus shelters, sidewalk benches, trash receptacles, or other obstructions or improvements proposed for or in the public area.
 - b. Photographs, drawings or manufacturer's brochures fully describing the specifications and appearance of all tables, chairs, umbrellas or other property proposed to be placed within or existing in the public area.
 - c. Evidence of the applicant's legal interest in the abutting property and written permission from the owner of the abutting property as to the proposed use of the abutting property and the encroachment area.
 - d. Proof of commercial general liability insurance in the amount of \$1,000,000.00 per occurrence for bodily injury and property damage, together with an endorsement to the policy reflecting the Town as an additional insured and providing for notice to the Town of lapse or expiration.
 - e. A signed statement of the applicant, wherein the applicant agrees to indemnify, defend and hold harmless the Town and its officers and employees from any and all claims, liabilities, lawsuits, damages, injuries and causes of action which may arise out of the grant of the encroachment permit, the encroachment and the use and activity thereon.
- (3) The Town Manager's approval of the encroachment permit shall be in writing, and shall include any conditions of approval she or he deems necessary to protect the public's interest in the public area affected by the encroachment.
- (4) The Town Manager's decision to approve, approve with conditions or deny an encroachment permit may be appealed to the Town Commission.

(Code 1962, § 20-15; Ord. No. 2009-31, § 1, 12-1-09)

Cross reference—Beaches and waterways, Ch. 5.