

follows: Outdoor lighting shall be designed so that any overspill of lighting onto adjacent properties shall not exceed one-half foot candle vertical and one-half foot candle horizontal illumination to the adjacent properties or structures..

IV. PUBLIC HEARING

1. To consider amending the existing regulations and procedures for outdoor display of merchandise incidental to on-premise use for properties located in the Downtown Overlay and Upper Downtown Overlay districts, with the exception of properties having frontage on Atlantic Avenue (Boardwalk).

APPLICANT: PLANNING AND ZONING COMMISSION – File #09-14100006

Blaine Smith explained the proposed changes to the Commission. Glenn Irwin, Executive Director of the Ocean City Development Corporation (OCDC) spoke in support of the proposed changes. There were no other comments from the public concerning the proposal.

MOTION/ Taylor **SECONDED/**Miller 6-0 IN FAVOR to forward the following recommendation to the Mayor and City Council:

Sec. 110-885. Outdoor display of merchandise standards for properties located in the Downtown Design Overlay and the Upper Downtown Design Overlay zone districts (R-3, R-3A, LC-1, DM, B-1, BC-2, DMX, M and I-1 Districts, excluding the Boardwalk frontages of properties in the R-3, B-1 and BC-2 districts).

(a) An annual display permit, issued by the Zoning Administrator, is required for outdoor display of merchandise. It is required that the display permit application be reviewed for recommendation by the Ocean City Development Corporation (OCDC) review committee. If the OCDC review committee recommends against the issuance of the display permit, it shall state in writing to the Zoning Administrator the reasons for the unfavorable recommendation. Upon his review, the Zoning Administrator may grant or deny the display permit. Any applicant aggrieved by the decision of the Zoning Administrator may file an appeal to the Board of Zoning Appeals as set forth in this Chapter.

(b) Properties displaying merchandise outdoors shall be subject to the following:

- 1. Exterior merchandise to be displayed shall be limited to items sold by the established business.
- 2. All sales registers and sales transactions shall be located and conducted within the enclosed building.
- 3. No outdoor display shall be set on or over public right-of-way without prior approval of the City Council.
- 4. Outdoor display shall only occur during the retail establishment's normal hours of operation. All display, including display racks and

bins, shall be moved inside the store when the store is not open for business.

5. There shall be no more than three like items for each display. For example, a retail business may only display up to three shirts and three boogey boards, but not more than three of any individual item.
6. No products shall be located at a height greater than five feet from grade or floor surface, except umbrellas used for display protection shall have a minimum 6 feet, 8 inches headroom clearance.
7. For each business, the area devoted to display products shall not exceed 20 square feet or one-half square foot for every one linear foot of building frontage, whichever is smaller.
8. No area used to display products shall interfere with pedestrian or vehicular movement or with safe and proper ingress/egress of pedestrian traffic.
9. No area devoted to display shall be allowed in off-street parking areas, loading areas, emergency lanes, landscaping areas, and storm water retention areas.
10. The display area shall be immediately adjacent to the building façade and shall not extend more than four feet beyond the façade.
11. Outdoor displayed merchandise shall not contain any attached advertising relating to the name of the business displaying the items or other signage in general, except the manufacturer's tag.
12. No product displayed outdoors shall be labeled with a price tag larger than 1-inch square. All tags must be securely fastened to the product.
13. A copy of the approved site plan showing the area for outdoor display of merchandise shall be conspicuously displayed on the premises.
14. All approved display areas shall be clearly delineated with some type of permanent markings that can be easily identified by enforcement personnel. The various display areas outlined above shall be arranged in such a manner to avoid clutter.
15. All merchandise displayed outside shall be able to be placed inside the store during inclement weather, and the store shall continue to meet life safety regulations in order to remain open, if the merchandise is displayed inside.
16. The entire display area shall be maintained and kept cleaned regularly.
17. All coin-operated vending machines shall be kept in compliance with section 110-865.26 of the Town code.

- 18. Display areas may be utilized for certain activities such as a caricaturist, henna tattoo artist, and the like. The total use area for these types of activities shall be considered as part of the allowed display area.
- 19. Enforcement procedures shall be in accordance with section 110-884(c).

(c) The applicant shall submit a site plan showing the area of merchandise display.

(d) Photographs of the proposed layout of merchandise display shall be part of the application. Dimensions of the layout must be provided.

(e) Incentive. A business displaying outdoor merchandise under porches, covered walkways, and awnings shall be entitled to have two times the area of merchandise display area permitted by subsection 110-885(b)7. However, this amount cannot exceed 50 percent of the total area of the porch/covered walkway/awnings.

(f) **PROHIBITED ITEMS:** hanging of display items from overhead canopies, awnings, porches, doors or other parts of the building; unclothed mannequins; promotion of alcohol, illegal drugs and paraphernalia, tobacco products; firearms; knives, offensive adult materials; products containing or displaying profanity, sexually explicit messages, or obscenity; sound amplification arranged or directed towards the outdoors and/or located outdoors; flashing lights.

ENFORCEMENT PROCEDURES:

Sec. 110-884(c).

(c) Outdoor display of merchandise permits shall be subject to the following enforcement procedures:

1. The business /store personnel will be given a verbal warning for initial violation to the terms of outdoor display permit. A written confirmation letter will be sent to the business owner and property owner as follow up.
2. The business owner and property owner will be issued a written correction notice for a second violation.
3. The business owner will be issued a municipal infraction for a third violation. A confirmation letter and copy of the citation will be sent to the property owner.
4. The business owner will be cited for a municipal infraction for a fourth violation. The display permit will be suspended for one week

beginning the day after the fourth violation. A confirmation letter of the suspension and copy of the citation will be sent to the property owner.

5. The business owner will be cited for a municipal infraction for a fifth violation. The display permit will be suspended for two weeks beginning the day after the fifth violation. A confirmation letter of the suspension and a copy of the citation will be sent to the property owner.
6. Any further violations will result in additional municipal infractions and will result in the revocation of the outdoor display permit for four months. The business owner must remove the outdoor merchandise completely within 24 hours of receiving the revocation notice. After four months, the business owner may apply for a new one (1) year display permit.

In addition, the Planning Commission acknowledged that the standards for the amount of outdoor display is more restrictive than on the Boardwalk and therefore believes a different fee structure would be appropriate to encourage more commercial activity in the interior parts of the Downtown area.

V. DISCUSSION

1. Continuation of informal discussion regarding revisions to the development plan for the 45th Street Village Planned Overlay District.

Keith Iott, architect for the project, went over the proposed revisions with the Commission. The plans submitted show the elevations of the two retail buildings and an east elevation of the project that includes only one of the residential buildings to be located at the bayfront. In response to concerns expressed by the Commission regarding the bay vista, the northerly retail building is separated from the existing retail store to the north by a distance of approximately 94.5 feet creating a substantial bay vista.

The Commission found that the plans submitted at this meeting were not acceptable. The Commission requested that plans include the project in its entirety and not submitted in bits and pieces so that the project may be evaluated comprehensively.

IV. ADJOURNMENT – 8:10 p.m.

John Staley, Secretary

Date