



**AGENDA
LOCA PLANNING AGENCY
THURSDAY, JUNE 20, 2019
5:30 PM
DESTIN CITY HALL BOARDROOM**

- 1. CALL TO ORDER**
- 2. ROLL CALL/PLEDGE OF ALLEGIANCE**
- 3. APPROVAL OF MINUTES**
 - A. May 16, 2019 Minutes**
- 4. NEW BUSINESS**
 - A. A public hearing regarding Ordinance No. 19-12-LC relating to the regulation of motor vehicle sales within city limits which amends Article 7 of the Land Development Code. The proposed Ordinance title is as follows:**

ORDINANCE 19-12-LC

**AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA
REGULATING THE SALE OF MOTOR VEHICLES UNLESS
CONDUCTED BY A BUSINESS WITHIN OKALOOSA
COUNTY; PROVIDING FOR AUTHORITY; PROVIDING
FOR FINDINGS OF FACT; PROVIDING FOR AN
AMENDMENT TO ARTICLE 7 OF THE LAND
DEVELOPMENT CODE; PROVIDING FOR CONFLICTING
PROVISIONS; PROVIDING FOR SEVERABILITY; PROVI
DING FOR AN EFFECTIVE DATE.**

- 5. DIRECTOR'S REPORT**
 - A. Zoning & Future Land Use Map Reconciliation Update
Harbor Capacity Study Update**
- 6. NEXT MEETING DATE: July 18, 2019**

7. ADJOURNMENT

Any person requiring a special accommodation at this hearing because of a disability or physical impairment should contact the City Clerk at (850) 837-4242 at least 48 hours prior to the hearing. If a person decides to appeal any decision made with respect to any matter considered at such meeting, such person will need a record of the proceeding and for such purpose may need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be based. (Sec. 286.0105, Florida Statutes)

**MINUTES
LOCAL PLANNING AGENCY
THURSDAY, MAY 16, 2019 - 5:30 P.M.
DESTIN CITY HALL BOARDROOM**

1. CALL TO ORDER:

Chairman Wood called the Local Planning Agency meeting to order on Thursday, May 16, 2019 at 5:30 p.m., in the Destin City Hall Boardroom with the Pledge of Allegiance immediately following.

2. ROLL CALL:

Members Present

James T. Wood, Jr.
Darryl Shelton
Andrew McDowell
Jason Klosterman
Don David

Members Absent

Corey Ledbetter

Staff Members Present

Kim Montgomery, D. City Clerk
Lauren Witt, Planner
Louis Zunguze, CD Dir.
Kimberly Kopp, LUA
Kyle Bauman, CA

3. APPROVAL OF MINUTES:

A. April 18, 2019

Motion by Agency member McDowell, seconded by Agency member Sheldon to approve minutes of the April 18, 2019 meeting as written, passed 5-0.

4. NEW BUSINESS:

A public hearing regarding Ordinance No. 19-10-LC relating to the establishment of safety zones on the beach, which amends Section 11.08.00 of the Land Development Code. The proposed Ordinance title is as follows:

The City Attorney (CA) read the ordinance by title into the record.

ORDINANCE 19-10-LC

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA ESTABLISHING SAFETY ZONES ON THE BEACH; PROVIDING FOR AMENDMENTS TO LAND DEVELOPMENT CODE SECTION 11.08.00. BEACH MANAGEMENT; PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR INCORPORATION INTO THE LAND DEVELOPMENT CODE;

PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

The Land Use Attorney (LUA) explained that currently there are not any requirements in the Land Development Code (LDC) that regulates where beach goers can locate. She explained that concerns have been expressed by both the Destin Fire Control District and the Sheriff's Department about being able to get to medical emergency situations on the sand or in the water to save a life in a timely manner. As well as not being able to clearly view all the areas they need to on a crowded day.

With that, she spoke of a grid staff created along the waters edge as well as 15-feet to the line of the dunes that would be cleared of people for the emergency personnel to transverse without any hold ups from trying to get the people to move out of the way. As well as an additional 5-foot setbacks on the side of each property line which could essentially create a 10-foot buffer for emergency personnel and their vehicles to be able get to the emergency situations quicker along the beach.

Agency member David questioned how anyone walking down to the beach would know where the 10-foot corridor is located; if it's not marked. According to the LUA, the intention is for the area to be enforced by the property owners. Agency member David pointed out that most of the property owners don't reside at those locations permanently and he cannot see how it could possibly be enforced. He then spoke of how he can imagine the 15-foot area from the toe of the dune line becoming a war zone trying to keep people out of the area and feels that the only logical area is to continue to enforce the 20-feet from the water's edge only.

Agency member Klosterman asked if there are some areas of the beach where this would be more enforceable than others.

According to the LUA, there are areas where the beach's available space is so small that this rule wouldn't even be applicable and others with plenty of space. So, it would have to be implemented with some common sense. She spoke of how the Fire Chief has expressed his concern regarding some days, such a holiday like the 4th of July, when the beach is so crowded that they can't even see an emergency, let alone get to it in a timely manner; without climbing over and even stepping on people. Adding that if they prefer, they can make a recommendation for it to be enforceable only during the holidays when there are so many people at the beach.

Agency member David suggested that staff take this ordinance back and come up with better workable solutions that can be addressed. The LUA stated that she agrees, and staff actually has planned to come back with a much more comprehensive ordinance. Adding that they just wanted to get something in place before the busy summer season starts for the

emergency personnel; and is why it's already gone to first reading with Council prior to coming before the LPA.

Chairman Wood stated that he does not have a problem with the safety zones, but he does have a problem with the execution of the 5-foot portion in regards to a property owner telling someone that they have to move off of a public portion of the beach.

The Chairman opened the hearing to the public for comment.

Mr. Jeff Sanders on behalf of Coral Reef Club, 708 Scenic Hwy. 98, Destin Beach Club, 1150 Scenic Hwy. 98, and Destin Seafarer 1700 Scenic Hwy. 98. He stated that he has several issues with property infringement of this ordinance. Adding that he doesn't understand why they can't just do what has been done for years and simply ask the property owners to leave the 20-foot corridor open. Adding that he and his Board of Director will never agree to this ordinance as it's written.

Mr. Dana Matthews pointed out that most of the property owners own to the Mean High-Water Line (MHWL) and spoke of Customary Use and the public's right to use the beach. He feels that this should be workshopped first to allow for comments from the public and property owners first.

Mr. Sam Howell, representing the Dunavant Corporation, owners of Henderson Beach Resort explained that their property lines go out 150-feet into the water, but they have never had an issue with allowing the public to traverse their property within the 20-feet. He spoke of how the Fire Department and Sheriff's Department don't even have vehicles that can get into the 15-foot area at the dunes and can't understand why that's even in the ordinance.

Agency member McDowell asked Mr. Howell if the ordinance only read 20-feet from the water's edge, would he be agreeable with it. Mr. Howell stipulated that he would. Adding that they keep their chairs back so that the lifeguards can traverse the 20-feet with their 4-wheel vehicles.

The LUA announced that the City is requesting to continue this ordinance. The CA spoke of wanting to make it clear to everyone that this ordinance came about from a request by the Fire Department and the Sheriff's Office and not staff.

The Chairman asked if they needed to make a motion to continue. According to the LUA that wouldn't be necessary, as they are going to just withdraw the ordinance at this time.

Agency McDowell referenced Robert's Rules and how he feels they should make a

motion. He then made the motion to table the ordinance with Agency member Shelton providing the second. A roll call vote of 5-0 was taken and the motion passed.

- B. A public hearing regarding Ordinance No. 19-09-LC relating to changes to the Zoning Map, which changes the zoning district of four hundred and sixty-eight parcels (468) to match the land use designations assigned in the Future Land Use Map of the Comprehensive Plan. The proposed Ordinance title is as follows:**

The City Attorney (CA) read the ordinance by title into the record.

ORDINANCE NO. 19-09-LC

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA, AMENDING THE OFFICIAL ZONING MAP AS REFERENCED IN THE LAND DEVELOPMENT CODE, SECTION 7.12.01(A)2 ZONING MAPS TO INCLUDE A CHANGE IN THE ZONING DESIGNATIONS OF 468 PARCELS GENERALLY DEPICTED IN THE LOCATION MAP ATTACHED, DESTIN, FLORIDA TO MATCH THE ASSIGNED LAND USE DESIGNATION OF THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN; PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR JURISDICTION; PROVIDING FOR ZONING MAP AMENDMENT; PROVIDING FOR INCORPORATION INTO THE LAND DEVELOPMENT CODE; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mrs. Witt explained that the purpose of the ordinance is to rezone 460 parcels in the city to bring both the Future Land Use Map and the Zoning Map into compliance to match their Future Land Uses.

Mr. Ted Spring, 134 Calhoun Avenue asked what Calhoun Mixed-Use Village means. According to Mrs. Witt, it is a transitional zoning district between the residential uses and the more heavily commercial areas around Calhoun and the harbor; and allows for mixed uses in those area.

He then asked if the densities would be changed. According to the LUA, the densities have already been adopted with the Comprehensive Plan and will not change.

The CA swore in Mrs. Alice Dearmon for testimony.

Mrs. Alice Dearmon, 523 Sea Hills Drive explained how Sea Hills Drive is a short little

street that goes up into the high dunes and protects the northern part of the neighborhoods in the city from storms. She exclaimed how she is concerned about the numbers they have on the spreadsheet and then spoke of how high dunes are protected by State Statues. Additionally, she mentioned that other coastal states protect them and feels this area should not be zoned like the rest of the city because it's not like the rest of the city. She spoke of how it was originally zoned Recreation years ago but over the years has been changed and requests they consider changing the zoning back to Recreation and save this beautiful area of Destin.

Mrs. Witt explained to the members that as a result of this zoning there will be three nonconforming uses created, which will be corrected later when the update to the LDC takes place and they will either be included as a Permitted Use or a Conditional Use.

The Chairman closed the public portion of the meeting and spoke of how impressed he is that with over 400 Administrative changes, only three nonconforming areas were created. He also spoke of how one of his goals as the Chairman is to get the Comprehensive Plan and the LDC aligned with each other. And then at some time later they can address Ms. Dearmon's concerns.

Agency member McDowell also spoke of the importance to getting the two maps to line up with one another.

Motion by Agency member McDowell that the Local Planning Agency recommend to City Council to approve Ordinance 19-09-LC with Agency member Shelton providing the second. A roll call vote of 5-0 was taken and the motion passed.

5. DIRECTORS REPORT: Nothing

6. NEXT MEETING: June 20, 2019

7. ADJOURNMENT:

Having no further discussion at this time, the meeting adjourned at 6:40 p.m.

Adopted and approved this _____ day of _____ 2019.

James Wood, Jr. Chairman

Kim Montgomery, Deputy City Clerk



COMMUNITY DEVELOPMENT DEPARTMENT

AGENDA ITEM

LPA MEETING DATE: June 20, 2019

TYPE OF AGENDA ITEM: Staff Report and Recommendation

TO: Local Planning Agency

THRU: City Land Use Attorney/Kimberly Kopp
Community Development Director, Louis Zunguze

FROM: Planner, Sam Brisolara
Planner, Lauren Witt
Planner, Dawn McDonald

DATE: May 28, 2019

SUBJECT: Proposed Ordinance No. 19-12-LC, Remote Motor Vehicle Tent Sales

ISSUE: The City Council has directed the Community Development Staff to address remote motor vehicle tent sales requirements within city limits consistent with an Ordinance adopted by the Commissioners of Okaloosa County.

BACKGROUND: A petition in Okaloosa County requested the county adopt an ordinance prohibiting the use of remote “tent” auto sales by companies that do not have a brick and mortar operation in the county or city. Okaloosa County Commissioners have adopted Ordinance 19-04 in response to the petition. The City has chosen to adopt its own ordinance regarding remote “tent” auto sales in the city limits.

DISCUSSION: The purpose of this ordinance is to clarify the regulation regarding remote “tent” automobile sales within the city limits. This Ordinance will only allow automobile dealers with brick and mortar locations within the boundaries of Okaloosa County or the City of Destin to conduct a remote tent sale within City limits, after obtaining proper City Issued permits.

A. Link to Strategic Goals /Objectives: Enhance Quality of Life.

B. Effect on Budget (EOB): Establishment of permits and fees will add to the City’s budget.

C. Level of Service (LOS): There is no anticipated change to the level of service in the city as a result of this ordinance

CONCLUSION: The proposed Ordinance 19-12-LC clarifies that only auto dealers with brick and mortar locations within the county or city limits can conduct remote “tent” auto sales intermittently as special events.

RECOMMENDATION: Staff recommends the LPA recommend approval of Ordinance 19-12-LC to the City Council.

RECOMMENDED MOTION: I move that the LPA recommend that the City Council approve Ordinance 19-12-LC.

Exhibits:

A. Proposed Ordinance 19-12-LC

ORDINANCE 19-12-LC

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA REGULATING THE SALE OF MOTOR VEHICLES UNLESS CONDUCTED BY A BUSINESS WITHIN OKALOOSA COUNTY; PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR AN AMENDMENT TO ARTICLE 7 OF THE LAND DEVELOPMENT CODE; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

SECTION 1. AUTHORITY.

The authority for enactment of this Ordinance is Article 1, Section 1.01 (b) of the City Charter, Section 166.021, Florida Statutes, and Section 162.22, Florida Statutes.

SECTION 2. FINDINGS OF FACT.

WHEREAS, there has been an increased occurrence of remote motor vehicle sales within the City of Destin; and

WHEREAS, these events are conducted on property by individuals and entities which have no established business within the boundaries of Okaloosa County or the City of Destin; and

WHEREAS, the individuals and entities which conduct these transactions normally depart the area after completion of the event and there is limited or no ability for purchasers of the motor vehicles to seek necessary information and recourse from the sellers; and

WHEREAS, sales conducted by a business, individuals, and entities which have an established business within Okaloosa County or the City of Destin provide a meaningful opportunity for the seller to seek recourse in the event that problems occur as to the vehicle.

WHEREAS, the City Council has determined that this ordinance is consistent with the adopted comprehensive plan and is in the best interests of the City and its citizens; and

WHEREAS, a public hearing has been conducted after due public notice by the Local Planning Agency and its recommendations reported to the City Council; and

WHEREAS, a public hearing has been conducted by the City Council after due public notice.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DESTIN, FLORIDA, AS FOLLOWS:

NOTE: Language in all sections of this ordinance that is ~~strike-thru~~ is language proposed to be deleted, underline language is language to be added, language that is not in strike-thru or underlined is not to be changed. The symbol *** represents sections of the Land Development Code that have been skipped and remain unchanged.

SECTION 3. CREATION OF LAND DEVELOPMENT CODE SECTION 7.22.00 – Remote Motor Vehicle Sales. Section 7.22.00 – Remote Motor Vehicle Sales- of the Land Development Code is hereby created as follows:

7.22.00. – Remote Motor Vehicle Sales.

7.22.01. Definitions. For the purpose of this section, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

Remote Motor Vehicle Sales means the sale of motor vehicles at a temporary structure or location, usually on an existing parking lot or vacant parcel of land.

Licensed Dealership means a premise which the primary endeavor is the sale of new or used motor vehicles.

Motor Vehicle means a new or used automobile or truck.

Permanent Motor Vehicle Sales Business means a business which operates out of a structure or location and has paid the Local Business Tax authorized under section 205.013, Florida Statutes for that location.

Person means and includes natural persons, partnerships, joint ventures, trusts or corporations, or any officers, agents, employees of any kind or personal representatives of any thereof, in any capacity, acting either for himself, or for any other person.

Premises means an includes all lands, structures, places, and also the equipment and appurtenances connected or used therewith in any business, or as is otherwise used in connection with any such business conducted on such premises.

7.22.02. Prohibited Actions.

It shall be unlawful for any person, either directly or indirectly, to conduct remote motor vehicle sales, regardless of whether the sales are new or used, where conducted at a structure or site which is not the location of the permanent motor vehicle sale business unless it is conducted by a licensed dealership with a permanent sales location within the boundaries of Okaloosa County or the City of Destin. This prohibition shall not apply to the sale of a motor vehicle by a person at a

location other than the individual residence for which the motor vehicle is individually titled to that person (not including titled as part of a dealership or commercial business) provided no person shall sell more than three (3) such motor vehicles per year.

7.22.03 Enforcement.

The provisions of this section 7.22.00, et al, "Remote Motor Vehicle Sales" shall be enforced as provided in Chapter 14, Offenses and Miscellaneous Provisions, of the Code of Ordinances of the City of Destin, and by such other means as are specified herein below:

(A). **Code Enforcement:** The Code Compliance Department may enforce the terms of this section 7.22.00, et al, "Remote Motor Vehicle Sales" by bringing a case to the Code Compliance Special Magistrate or Code Enforcement Board, whichever is applicable, as provided in Chapter 14, Offenses and Miscellaneous Provisions, Article III, Code Enforcement Board or Special Magistrate, of the Code Ordinances of the City of Destin and Chapter 162, Part 1, Florida Statutes.

(B). **Civil Citation:** The Code Compliance Department, or other duly authorized officer or authority, may enforce the terms of this article through issuance of civil citation as provided in Chapter 14, Offenses and Miscellaneous Provisions, Article III, Code Compliance Citation Program and Procedures, of the Code Ordinances of the City of Destin and Chapter 162, Part 2, Florida Statutes.

(C). The City Manager shall revoke any and all Business Tax Receipts for any businesses that violate this section 7.22.00, et al, "Remote Motor Vehicle Sales".

(D). Nothing contained herein shall prevent the city from taking such other lawful action in law and equity as may be necessary to remedy any violation of, or refusal to comply with, any part of this section 7.22.00, et al, "Remote Motor Vehicle Sales", including but not limited to: (a). Pursuit of injunctive and/or declaratory relief in a court of law; and (b). Utilizing any other action or enforcement method allowable by law.

SECTION 4. INCORPORATION INTO LAND DEVELOPMENT CODE. This ordinance shall be incorporated into the City of Destin's Land Development Code and any section or paragraph number or letter and any heading may be changed or modified as necessary to effectuate the foregoing.

SECTION 5. CONFLICTING PROVISIONS. Special Acts of the Florida Legislature applicable to the incorporated area of the City of Destin, City Ordinances and City Resolutions, or parts, thereof, in conflict with the provisions of this ordinance are hereby superseded by this ordinance to the extent of such conflict.

SECTION 6. SEVERABILITY. If any section, phase, sentence, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such

portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 7. EFFECTIVE DATE. This ordinance shall become effective upon its adoption by the City Council and signature by the Mayor.

ADOPTED this ____ day of July, 2019.

Gary Jarvis, Mayor

ATTEST:

Rey Bailey, City Clerk

The form and legal sufficiency of the foregoing
has been reviewed and approved by the City Land
Use Attorney, for the City of Destin, only.

Kimberly Romano Kopp, Land Use Attorney