

EXHIBIT "1"
ORDINANCE NO 2020-

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF HALLANDALE BEACH, FLORIDA, AMENDING CHAPTER 32, ZONING AND LAND DEVELOPMENT CODE; AMENDING ARTICLE IV, DEVELOPMENT STANDARDS; DIVISION 20, TEMPORARY USES; PROVIDING FOR FOOD TRUCKS SPECIAL EVENTS; PROVIDING FOR THE TEMPORARY USE OF CARGO CONTAINERS IN THE CENTRAL REGIONAL ACTIVITY CENTER/ FASHION/ART DESIGN AND GREYHOUND SUBDISTRICTS, THE PLANNED LOCAL ACTIVITY CENTER (PLAC) AND COMMERCIAL RECREATIONAL ACTIVE (CR-A) DISTRICTS; PROVIDING FOR EXTENDED TEMPORARY USE EVENTS; PROVIDING FOR CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 2-231(f)(1) of the City of Hallandale Beach, the Planning and Zoning Board shall review and make advisory recommendations to the City Commission on applications for text changes to the Zoning and Land Development Code; and

WHEREAS, the Hallandale Beach Community Redevelopment Agency (CRA) has requested to make changes to the existing land development regulations to provide for food truck special events and allow the use of temporary cargo containers in the Fashion Art Design District (FADD) of the Regional Activity Center to accommodate continued efforts in reshaping the FADD area;

WHEREAS, in addition to the FADD subdistrict, the proposed code changes are suitable on large-scale entertainment properties zoned planned local activity center (PLAC), commercial recreational active (CR-A) and the Greyhound Track subdistrict of the Central Regional Activity center for extended period of time subject to annual reviews, conditions and certain criteria;

WHEREAS, the proposed Code changes will enhance and revitalize the Fashion Art Design District and other areas of the City in a manner consistent with the City's Comprehensive Plan, Future Land Use Element, and will improve the overall quality of life for the citizens within the City of Hallandale Beach;

WHEREAS, on May 27, 2020, the Planning and Zoning Board, serving as the Local Planning Agency, considered the proposed amendments to Chapter 32 and afforded all interested persons an opportunity to be heard at the public meeting; and

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF
THE CITY OF HALLANDALE BEACH, FLORIDA:**

SECTION 1. Chapter 32, Article IV "Zoning", Division 20, Temporary Uses, Section 32 is amended as follows:

DIVISION 20. - TEMPORARY USES

Sec. 32-701. - Generally.

Certain uses of land are temporary in character. They vary in type and degree, as well as in length of time involved. Such uses may have little impact on surrounding and nearby properties or they may present negative impacts involving potential incompatibility with existing and projected permitted or permissible uses. It is the intent of this division to classify temporary uses and to provide for permitting, administration and control of such uses according to several classifications herein. Except as otherwise provided in this chapter, temporary uses shall be governed by this division.

Sec. 32-702. - Event permit required.

(a) No person shall operate a temporary use within the city without first obtaining a temporary use permit. A temporary use shall include, but not be limited to:

- (1) Events held indoors and promotional events that change the city approved use of the facility.
- (2) Special events that involve street closures or include event components requiring the coordination of a number of city departments or other agencies, or involve activities such as the use of alcohol, on-site commercial cooking, food sales or large scale temporary structures.
- (3) Outdoor sales of a temporary nature including, but not limited to:
 - a. Sidewalk sale, except as provided in section 32-168, as amended,
 - b. Seasonal sale in B-G, business general district or a less restrictive district,
 - c. Grand opening sale,
 - d. Going out of business sale,
 - e. Fundraising sale and similar gatherings,
 - f. Any other off-premises sale or exhibition.
- (4) Outdoor special events including, but not limited to:
 - a. Concerts,
 - b. Festivals,
 - c. Parades
 - d. Carnivals,
 - e. Athletic events, walks or races,
 - f. Flea markets or farmer's markets,

73 g. Food truck events,

74 h. g. Outdoor community events, such as, a block party, and

75 i. h. Other similar uses of a temporary nature, not specifically permitted by this chapter,
76 as determined by the city manager.

77 (5) Cargo containers used as a principal use temporary structure for commercial purposes
78 in the planned local activity center (PLAC), commercial recreational active (CR-A) or
79 central regional activity center-fashion art and design (FADD) and greyhound track sub-
80 districts, subject to approval by the city commission pursuant to section 32-707(d).
81 Temporary cargo containers approved under this subsection are not subject to the
82 dimensional requirements of the subdistrict provided, however, that stacking shall be
83 limited to 2 containers.

84 (b) A recurring event is a temporary use generally requiring a temporary use permit, and occurs
85 a minimum of four times a year and meets the same conditions outlined in section 32-703. A
86 recurring event, pursuant to section 32-702(a), is permitted on properties owned by the city
87 or the city community redevelopment agency, those zoned recreation and open space (OS),
88 community facilities (CF), planned local activity center (PLAC), commercial recreational
89 active (CR-A) or central regional activity center/ ~~more specifically, the~~ fashion art and design
90 and greyhound track sub-districts, which shall be eligible for an annual permit. Such permit
91 may be issued on a fiscal year basis by the city manager provided the duration of the
92 reoccurring event is compliant with section 32-708(c).

93 (c) Events, pursuant to section 32-702(a), lasting more than 30 days on properties zoned
94 planned local activity center (PLAC), commercial recreational active (CR-A) or central
95 regional activity center/ fashion art and design and greyhound track sub-districts, shall be
96 eligible for an annual permit subject to city commission approval pursuant to section 32-
97 707(c).

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99 **Sec. 32-703. - Application.**

100 Applications for a temporary use permit shall be submitted to the city not less than 45 days or if
101 city commission approval is required, 60 days, prior to each permitted temporary use. All
102 temporary use permit applications shall include, but not be limited to, the following information:

- 103 (1) Event dates.
- 104 (2) Nature of event.
- 105 (3) The number of expected attendees (vendors and support staff).
- 106 (4) Specific hours of operation.
- 107 (5) Notarized statement from property owner authorizing the proposed temporary use on
108 the property.
- 109 (6) Alcohol distribution requested, if applicable.
- 110 (7) A site plan, which shows the location, layout of the event, and pedestrian circulation
111 pattern.
- 112 (8) A list of all temporary structures to be used during the event, including signs, tents,
113 booths, concession areas, trailers, cargo containers, waste removal facilities, sanitary

114 facilities, utilities, such as temporary electrical and telephone facilities, emergency
115 medical facilities, carnival rides, fencing, and any other information requested by the city.
116 All temporary structures require a separate permit, unless expressly exempt by other
117 city, county or state regulations. Proof of application for permits as required for the
118 operation of temporary uses should be provided upon application for the temporary use
119 permit.

120 (9) General liability insurance or indemnification declaration, pursuant to section 32-704.

121 (10) Other reasonable information deemed by the city manager to be necessary for an
122 adequate evaluation of the proposed event.

123 **Sec. 32-704. - Indemnification and insurance required.**

124 (a) A temporary use permit holder for events held on city property shall provide comprehensive
125 general liability insurance in an amount determined by the city. Proof of such insurance,
126 naming the city as an additional insured party, shall be provided to the city prior to the
127 issuance of a temporary use permit.

128 (b) A temporary use permit holder for events held on city property shall indemnify and hold the
129 city harmless on forms approved by the city attorney and the risk management department.

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132 **Sec. 32-705. - Conditions for permit approval.**

133 (a) A temporary use permit shall be issued upon the city commission or city manager's
134 determination as may be applicable that:

135 (1) The temporary use application is complete in all material respects, and all information
136 contained therein is accurate.

137 (2) All conditions set forth in the conditions imposed by the city, if any, have been fully met
138 and all laws complied with.

139 (3) The temporary use will not interfere with or unduly burden the city's provisions of
140 municipal services to the community, including but not limited to police, fire, emergency
141 medical services, water and sanitary sewer service and solid waste removal.

142 (4) The areas utilized for any temporary use will be cleaned following any temporary use,
143 and in all respects restored to a clean condition within 24 hours after the close of the
144 event.

145 (5) Surrounding and nearby properties are suitably protected from adverse conditions that
146 may reasonably be expected to result from the proposed use.

147 (6) The proposed use is not likely to create hazardous vehicular or pedestrian traffic
148 conditions, or result in traffic in excess of the capacity of streets serving it.

149 (7) Adequate off-street parking is available.

150 (8) All other applicable laws and regulations of the city and of any other regulatory body or
151 agency have been complied with.

152 (9) The health, safety and welfare of the public are not threatened in any way by the
153 conduct of the temporary use.

(b) ~~(10)~~ The city manager reserves the discretion to deny any application for a temporary use permit.

(c) The areas authorized by the city commission for an annual temporary use permit, including the use of temporary cargo containers, shall be restored to its original condition or sodded if the area was vacant. All above-ground improvements, if any, installed in connection with annual permits shall be removed within 30 days of expiration or revocation of the permit.

Sec. 32-706. - Payment for city support services; user fees; security bond.

The city may require that, as a condition precedent to issuance of a temporary use permit, the applicant pay to the city its cost in providing services in support of the temporary use, and may require that the applicant pay a user fee for the use of public property. A refundable security bond, or similar financial pledge, may be required in an amount to be determined by the development services department director or designee to ensure that any damage that occurs during the temporary use is repaired and the premises returned to their previous condition.

Sec. 32-707. - Approval of permit.

(a) All permitted temporary uses require the city manager's approval. A temporary use of significant scale, such as a concert, parade or carnival, may additionally require notice to the city commission.

(b) Concerts ending after midnight shall require city commission approval.

(c) Events lasting more than 30 days shall require city commission approval.

(d) The use of temporary cargo containers pursuant to section 32-702(a)(5) shall require city commission approval.

(e) The City may impose conditions to mitigate any negative impacts and to protect the public health and welfare.

Sec. 32-708. - Duration and frequency of permit.

(a) Each single family residence is limited to four temporary use permits each fiscal year.

(b) Each multi-family, commercial, or civic establishment is limited to six temporary use permits each fiscal year, except for recurring events specified in section 32-702(b), sidewalk sales specified in section 32-708(d), and properties zoned CF, OS, PLAC, CR-A, and the Fashion/Art/Design subdistrict.

(c) Each temporary use permit shall be issued for a specific period of time not to exceed five days or, in the case of a seasonal sale such as that of Christmas trees and pumpkins, 30 days. A temporary use permit may be approved by the city manager for a period greater than five days, but not in excess of 30 days, upon finding that such increased duration will not adversely impact the city and that the conditions of section 32-705 have been met. Permits for events in excess of 30 days shall be issued as authorized by the city commission.

(d) Sidewalk sales shall be permitted six times annually, and shall not last more than 72 hours.

(e) The violation of any of the conditions of a temporary use permit shall constitute cause for immediate revocation of the permit. It shall be unlawful for any person to continue a temporary use after the permit has expired or been revoked. The duration and frequency of a temporary use permit and annual permits may be altered as determined by the city manager, or in the

case of cargo containers or events in excess of 30 days, the duration shall be determined by the city commission.

(f) The permit for the use of cargo containers used as large-scale temporary structures for commercial purposes pursuant to section 32-702(b) authorized by the city commission may be renewed on an annual basis at the city manager's discretion utilizing the criteria in section 32-705 for a period not to exceed a total of five (5) years from the date of city commission's approval. Approval of an annual permit for cargo containers does not constitute approval of a permanent structure. Unless renewed, upon the expiration of the permit, the containers and associated improvements shall be removed or made to comply with the applicable zoning regulations of the subdistrict.

(g) Events pursuant to section 32-702(c), with an annual permit authorized by the city commission, may be renewed on an annual basis at the city manager's discretion utilizing the criteria in section 32-705 for a period not to exceed a total of three (3) years from the date of city commission's approval.

Sec. 32-709. - Fees, penalties and appeals.

Each applicant shall submit a non-refundable application fee with the initial application to help defray the city's cost of processing the application and coordinating with the relevant city services and personnel. The fee for an annual event permit shall be established by resolution. Application, permit and penalty fees in association with temporary use are on file in the development services department.

(1) The filing fee shall accompany each application for a temporary use permit.

(2) *Late application.* Any application submitted less than 45 days prior to the date of the event, or less than 60 days, if city commission approval is required, except outdoor sales temporary uses pursuant to section 32-702(a)(3) submitted less than 30 days prior to the event, shall be considered a late application and may be denied or charged an additional fee.

(3) *After-the-fact penalties and fees.* Any event held without a permit shall be assessed an after-the-fact penalty fee set forth by resolution, in addition to the application and permitting fees. Temporary use activities held without a permit shall be subject to a cease-and-desist order upon determining that such event presents a threat to the health, safety and welfare of the public and adjoining properties. No new temporary use permit shall be issued until a permit and penalty fees have been paid.

(4) *Penalties.* Should any temporary use occur without prior acquisition of a temporary use permit or should any approved permit for temporary uses violate any condition of the approved permit or any section of this division, it shall be subject to progressive penalty fees set forth by resolution. Penalties shall be established for violations occurring within 12 months of the fiscal year.

a. For the first violation of the Code, the property owner shall be charged the established penalty fee, in addition to the application and permitting fees.

b. For the second such violation, the penalty fee shall be doubled.

c. For the third such violation, the penalty fee shall be quadrupled.

d. For the fourth such violation, applications shall be withheld for temporary use permits by the applicant or on the property for a period of one year.

The property owner shall be responsible for payment of all penalty fees should the applicant default. Each penalty shall be determined by the city manager after reviewing the available information.

- (5) *Appeals.* Should the applicant or property owner be aggrieved by the decision of the city manager, (s)he may appeal to the city commission. Such appeal shall be submitted in writing within ten days of receipt of notification of the decision, and shall state the reasons why the aggrieved entity is appealing. Each appeal shall be accompanied by the fee set forth by the city to cover the cost of appeal proceedings, pursuant to section 32-825.

Sec. 32-710. - Revocation of temporary use permits.

A temporary use permit may be revoked by the city manager for failure of the special permit holder to comply with any of the provisions of this division or any other local, state or federal law governing the event. A temporary use permit may also be revoked by the city manager if such revocation is in the best interest of the city, based on emergency, disorder or other unforeseen condition in order to maintain the public safety, health and welfare of its citizens.

Revocation of an annual temporary use permit shall apply to all subsequent events approved on the annual temporary use permit.

All temporary use signage and advertising shall be immediately removed upon revocation of related temporary use permit.

SECTION 2. Conflict. All ordinances or portions of the Code of Ordinances of the City of Hallandale Beach in conflict with the provisions of this ordinance shall be repealed to the extent of such conflict.

SECTION 3. Severability. Should any provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part declared to be invalid.

SECTION 4. Codification. It is the intention of the Mayor and City Commission that the provisions of this ordinance be incorporated into the Code of Ordinances; to effect such intention the words "ordinance" or "section" may be changed to other appropriate words.

SECTION 5. Effective Date. This Ordinance shall take effect immediately upon adoption.

PASSED AND ADOPTED on 1st reading on August____, 2020.

PASSED AND ADOPTED on 2nd reading on August____, 2020.

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JOY COOPER
MAYOR

ATTEST:

FIRST READING VOTE ON ADOPTION

JENORGEN M. GUILLEN, CMC
CITY CLERK

Mayor Cooper _____
Vice Mayor Javellana _____
Commissioner Butler _____
Commissioner Lazarow _____
Commissioner Lima-Taub _____

APPROVED AS TO LEGAL SUFFICIENCY
AND FORM

FINAL VOTE ON ADOPTION

JENNIFER MERINO
CITY ATTORNEY

Mayor Cooper _____
Vice Mayor Javellana _____
Commissioner Butler _____
Commissioner Lazarow _____
Commissioner Lima-Taub _____

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