

**ORDINANCE No. 02-04**

AN ORDINANCE AMENDING CHAPTER 34 OF THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE; PROVIDING AUTHORITY; ADDING SEC. 34-123 REGARDING FUNCTIONS, POWERS, AND DUTIES AS TO DESIGN REVIEW; AMENDING SEC. 34-209 REGARDING BUILDING RELOCATION PERMITS; ADDING "COMMERCIAL DESIGN STANDARDS" WHICH PROVIDE SEC. 34-991 PURPOSE AND INTENT, SEC. 34-992 APPLICABILITY AND COMPLIANCE, SEC. 34-993 DEFINITIONS, SEC. 34-994 EXTERIOR WALLS, SEC. 34-995 PRINCIPAL FACADE WALLS, SEC. 34-996 ROOFS, SEC. 34-997 PLAZAS AND COURTYARDS, AND SEC. 34-998 SIGNAGE; ADDING A NEW DIVISION 12-A ENTITLED "DRUG PARAPHERNALIA" WHICH PROVIDES SEC. 34-1551 DRUG PARAPHERNALIA DEFINED, SEC. 34-1552 DETERMINATION OF PARAPHERNALIA, AND SEC. 34-1553 MANUFACTURE AND DELIVERY OF DRUG PARAPHERNALIA; PROVIDING SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

**IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:**

**SECTION 1. AUTHORITY.** This Ordinance is enacted pursuant to the provisions of Chapter 95-494, Laws of Florida, Chapters 163 and 166, Florida Statutes, and other applicable provisions of law.

**SECTION 2. AMENDING SEC. 34-209 REGARDING BUILDING RELOCATION PERMITS.** See Exhibit "A" Sec. 34-209, attached.

**SECTION 3. ADDING "COMMERCIAL DESIGN STANDARDS" WHICH PROVIDE SEC. 34-991 PURPOSE AND INTENT.** See Exhibit "B" Sec. 34-991, attached.

**SECTION 4. ADDING "COMMERCIAL DESIGN STANDARDS" WHICH PROVIDE SEC. 34-992 APPLICABILITY AND COMPLIANCE.** See Exhibit "B" Sec. 34-992, attached.

**SECTION 5.** ADDING “COMMERCIAL DESIGN STANDARDS” WHICH PROVIDE SEC. 34-993 DEFINITIONS. See Exhibit “B” Sec. 34-993, attached.

**SECTION 6.** ADDING “COMMERCIAL DESIGN STANDARDS” WHICH PROVIDE SEC. 34-994 EXTERIOR WALLS. See Exhibit “B” Sec. 34-994, attached.

**SECTION 7.** ADDING “COMMERCIAL DESIGN STANDARDS” WHICH PROVIDE SEC. 34-995 PRINCIPAL FACADE WALLS. See Exhibit “B” Sec. 34-995, attached.

**SECTION 8.** ADDING “COMMERCIAL DESIGN STANDARDS” WHICH PROVIDE SEC. 34-996 ROOFS. See Exhibit “B” Sec. 34-996, attached.

**SECTION 9.** ADDING “COMMERCIAL DESIGN STANDARDS” WHICH PROVIDE SEC. 34-997 PLAZAS AND COURTYARDS. See Exhibit “B” Sec. 34-997, attached.

**SECTION 10.** ADDING “COMMERCIAL DESIGN STANDARDS” WHICH PROVIDE SEC. 34-998 SIGNAGE. See Exhibit “B” Sec. 34-998, attached.

**SECTION 11.** ADDING A NEW DIVISION 12-A ENTITLED “DRUG PARAPHERNALIA” WHICH PROVIDES SEC. 34-1551 DRUG PARAPHERNALIA DEFINED. See Exhibit “C” Sec. 34-1551, attached.

**SECTION 12.** ADDING A NEW DIVISION 12-A ENTITLED “DRUG PARAPHERNALIA” WHICH PROVIDES SEC. 34-1552 DETERMINATION OF PARAPHERNALIA. See Exhibit “C” Sec. 34-1552, attached.

**SECTION 13.** ADDING A NEW DIVISION 12-A ENTITLED “DRUG PARAPHERNALIA” WHICH PROVIDES SEC. 34-1553 MANUFACTURE AND DELIVERY OF DRUG PARAPHERNALIA. See Exhibit “C” Sec. 34-1553, attached.

**SECTION 14.** SEVERABILITY. If any one of the provisions of this ordinance should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such provision shall be null and void and shall be deemed separate from the remaining provisions of this ordinance, and in no way affect the validity of all other provisions of this ordinance.

**SECTION 15.** EFFECTIVE DATE. This ordinance shall take effect immediately upon its adoption.

The foregoing ordinance was enacted by the Town Council upon a motion by Council Member Rynearson and seconded by Council Member Thomas and, upon being put to a vote, the result was as follows:

Howard Rynearson	aye
Daniel Hughes	aye
Bill Thomas	aye
W. H. "Bill" Van Duzer	aye
Terry Cain	aye

DULY PASSED AND ENACTED this 24<sup>th</sup> day of June, 2002.

ATTEST:

TOWN OF FORT MYERS BEACH

By: \_\_\_\_\_  
Marsha Segal-George, Town Clerk

By: \_\_\_\_\_  
Daniel Hughes, Mayor

Approved as to form by:

\_\_\_\_\_  
Richard V.S. Roosa, Town Attorney

## Exhibit A

# AMENDMENTS TO CHAPTER 34 OF THE FORT MYERS BEACH LAND DEVELOPMENT CODE

### Sec. 34-209. Building relocation permit.

#### ***(a) Compliance with applicable regulations; time limit for leaving buildings on street.***

~~(1)~~ When a building is moved to any location within the town unincorporated area of the county, the building or part thereof shall ~~immediately~~ be made to conform to applicable provisions of the Florida Building Code and to all the provisions of this chapter within 90 days of the date of issuance of the moving permit, the latest adopted zoning ordinance and other applicable county regulations.

~~(2)~~ Any building being moved for which a permit was granted may not remain in or on the streets for more than 48 hours. *[moved to 34-209(f)(3)]*

***(b) Contents of application.*** Any person desiring to relocate or move a building must first file with the director ~~of the division of codes and building services~~ a written application on an official form ~~provided by the division~~. The application must include the following information furnished by the applicant and must be accompanied by the required application fee:

- (1) The present use of the building.
- (2) The proposed use of the building.
- (3) The building's present location and proposed new location by STRAP number, as well as by street numbers.
- (4) Certified survey of the proposed site with ground elevations, flood zone, and required elevation, ~~if in a V or A flood zone area.~~
- (5) Plot plan showing lot dimensions, setbacks, location of existing structures, and location of building drawn to scale no more than 1/2-inch equals one inch and no less than one inch equals 50 feet. The plot plan should depict the roof overhang as well as the foundation.
- (6) Construction details, drawn to a scale of no larger than one-half inch equals one foot and no smaller than one-eighth inch equals one foot, including the following:

- a. Foundation layout with connection details.
- b. Floor plan, existing and proposed.
- c. Mechanical plans, including air conditioning, electric system, and plumbing plans.
- d. Elevations, front, side, and rear.
- e. Flood elevations for the proposed new location shall be shown on the foundation layout and elevations, if applicable.

(7) Current termite inspection by licensed pest controller.

~~(8)~~ ~~Water and sewer approvals from appropriate agencies.~~

~~(8)~~ ~~(9)~~ Photographs showing all sides of the building and the site where the building is proposed to be located.

~~(9)~~ ~~(10)~~ Proof of notice to all owners of property ~~abutting or across the street from~~ located adjacent to the site where the building is proposed to be located.

~~(10)~~ A detailed written statement describing all proposed exterior alterations to the building after it is relocated. At a minimum, these details shall include methods and materials, and construction details as appropriate, regarding:

- a. The height and method of elevating the building above grade;
- b. Any proposed enclosure of space below the lowest habitable floor;
- c. Any changes to exterior doors, windows, siding, awnings, and shutters;
- d. Any porches or decks to be built, modified, or eliminated; and
- e. Any changes to the roof other than routine maintenance or replacement with similar materials.

***(c) Criteria for suitability of building to proposed site.*** The town manager shall determine whether the building to be relocated is suitable for its proposed site under one of the following categories:

- (1) **Historic buildings.** For buildings that, after relocation, would be eligible for historic designation pursuant to § 22-204(a)-(d):
  - a. Is the proposed use of the building permitted by the zoning district?
  - b. Has the property owner consented to historic designation of the site after the building is relocated?
  - c. Has the property owner proposed improvements that restore the building while retaining its essential historic characteristics, consistent with the criteria in § 22-101-103?
- (2) **Other buildings.** For all other buildings:
  - a. Is the proposed use of the building permitted by the zoning district and similar to existing uses in the neighborhood?
  - b. Is the building reasonably compatible with the neighborhood when considering factors such as its size, age, and condition? If not, has the property owner proposed sufficient renovations or improvements to the building to achieve compatibility?

The town manager may place reasonable conditions on suitability decisions to bring applications up to these criteria or to ensure the performance of proposed improvements or renovations. Suitability decisions pursuant to this subsection are administrative decisions which may be appealed in accordance with article II of this chapter.

~~(d)~~ ~~(c)~~ **Inspection of building.** The director of the division of codes and building services will have the building inspected to determine:

- (1) If the building can be brought into compliance in all respects with this chapter and other town county regulations pertaining to the area to which the building is to be moved.
- (2) If the building is structurally sound and either complies with applicable portions of the Standard Florida Building Code and other codes adopted by the town county or can be brought into compliance with such codes.

~~(e)~~ ~~(d)~~ **Rejection of application.** The director of the division of codes and building services must reject any application if:

- (1) The building fails to meet the suitability criteria in subsection (c), as determined by

the town manager, or the inspection criteria detailed in subsection ~~(c)~~ (d) of this section;

- (2) In the opinion of the director, the moving of any building will cause serious injury to persons or property;
- (3) The building to be moved has deteriorated due to fire or other element to more than 50 percent of its assessed market value, as that term is defined in § 6-405; or
- (4) The moving of the building will violate any of the requirements of the Florida Standard Building Code, this code chapter or other applicable town county regulations.

Except for decisions as to the Florida Building Code, such decisions are administrative decisions which may be appealed in accordance with § 34-145(a) article II of this chapter.

~~(f)~~ ~~(e)~~ **Approval of building relocation permit application:**

- (1) Upon approval of the application for building relocation, a licensed building relocation contractor representing the applicant must:
  - a. Apply for and receive all required permits from the departments of transportation; of the county or state, if county or state roads will be used during the relocation;
  - b. Pay the required fees and obtain the building relocation permit and appropriate sub-permits.
- (2) Any building being moved for which a permit was granted may not remain in or on the streets for more than 48 hours.  
[moved from 34-209(a)(2)]

## Exhibit B

# AMENDMENTS TO CHAPTER 34 OF THE FORT MYERS BEACH LAND DEVELOPMENT CODE

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### COMMERCIAL DESIGN STANDARDS

- Sec. 34-991. Purpose and intent.*  
*Sec. 34-992. Applicability and compliance.*  
*Sec. 34-993. Definitions.*  
*Sec. 34-994. Exterior walls.*  
*Sec. 34-995. Principal facade walls.*  
*Sec. 34-996. Roofs.*  
*Sec. 34-997. Plazas and courtyards.*  
*Sec. 34-998. Signage.*
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### COMMERCIAL DESIGN STANDARDS

#### Sec. 34-991. Purpose and intent.

The purposes of design regulations for commercial buildings include:

- (1) Encouraging traditional building forms that reinforce the pedestrian orientation and desired visual quality of the Town of Fort Myers Beach.
- (2) Creating usable outdoor space through the arrangement of compatible commercial buildings along street frontages.
- (3) Encouraging buildings of compatible type and scale to have creative ornamentation using varied architectural styles.
- (4) Enhancing the town's business districts as attractive destinations for recreation, entertainment, and shopping.
- (5) Maintaining and enhancing the town's sense of place and its property values.
- (6) Implementing the design concepts in the Fort Myers Beach Comprehensive Plan.

#### Sec. 34-992. Applicability and compliance.

(a) **Applicability.** These commercial design standards apply to all commercial and mixed-use buildings or portions thereof that are being newly built, and to "substantial improvements" to such

buildings as defined in § 6-405, on properties that are zoned CPD (commercial planned development) or that lie within the redevelopment overlay district described in §§ 34-1141–1146.

- (1) Commercial buildings on properties with a CPD zoning resolution that incorporated specific architectural elevations shall be required to comply with these standards to the extent that the standards are not inconsistent with the approved elevations.
- (2) Commercial buildings such as hotels that will not contain commercial uses below base flood elevation shall not be required to comply with the ground-floor window and retail standards. However, the principal facades of these buildings must screen underbuilding parking areas in a manner acceptable to the town manager or designee.

(b) **Compliance determinations.** Compliance with these standards shall be determined as follows:

- (1) An applicant may seek conceptual or final approval of a specific building and site design during the commercial planned development rezoning process (see § 34-931). The resolution approving a commercial planned development may include specific site plans and building elevations and shall specify the extent to which these plans and elevations have or have not been determined to meet these commercial design standards and whether any deviations to these standards have been granted.
- (2) Unless final approval has been granted pursuant to subsection (1), the town manager shall make a determination of substantial compliance with these standards before a development order can be issued pursuant to ch. 10 of this code, or before a building permit can be issued if a development order is not applicable. Compliance determinations of the town manager are administrative decisions which may be appealed in accordance with article II of this chapter.

(c) ***Variations and deviations.*** Requests to vary from a substantive provision of these standards may be filed using the variance procedures in § 34-87, or may be requested during planned development rezonings as a deviation as described in § 34-932(c). The following are acceptable justifications for variances or deviations:

- (1) The proposed substitution of materials or function accomplishes substantially the same goals as the required provisions in these standards and would make an equal or greater contribution to the public realm of the Town of Fort Myers Beach; or
- (2) The proposed building is a civic building, which is expected to be more visually prominent than a typical commercial building; or
- (3) There are exceptional or extraordinary conditions that are inherent to the property in question, that do not apply generally to other nearby properties, and that are not the result of actions of the applicant.

### **Sec. 34-993. Definitions.**

*Arcade* means a series of columns topped by arches that support a permanent roof over a sidewalk.

*Awning* means a flexible roof-like cover that extends out from an exterior wall and shields a window, doorway, sidewalk, or other space below from the elements.

*Balcony* means an open portion of an upper floor extending beyond (or indented into) a building's exterior wall.

*Bay window* means a series of windows which project beyond the wall of a building to form an alcove within.

*Canopy* means an awning-like projection from a wall that is made of rigid materials and is permanently attached to the principal facade of a building.

*Civic building* means a building that is allowed greater design flexibility due the prominence of its function and often its location. For purposes of these standards, civic buildings include buildings operated by governmental entities and certain privately owned buildings that serve religious,

charitable, cultural, educational, or other public purposes.

*Colonnade* is similar to an arcade except that it is supported by vertical columns without arches.

*Commercial building* means, for purposes of these standards, any building used in whole or in part for any of the following uses: retail, office, hotel or motel rooms, institutional uses, commercial storage, restaurants, bars, and similar uses.

*Cornice* means a decorative horizontal feature that projects outward near the top of an exterior wall.

*Courtyard* means an unroofed area surrounded by buildings.

*Expression line* means a decorative horizontal feature that projects outward from an exterior wall to delineate the top of the first story of a building.

*Facade, principal* means the exterior wall of a building that is roughly parallel to a right-of-way or which faces a plaza or public park, and also that portion of a building's side wall that faces a pedestrian way or parking lot. Along the east side of Old San Carlos Boulevard only, the rear wall of buildings shall also be considered a principal facade whenever it is visible from the Matanzas Pass sky bridge.

*Lintel* means a structural or merely decorative horizontal member spanning a window opening.

*Plaza* means an unroofed public open space designed for pedestrians that is open to public sidewalks on at least one side.

*Porch* means a covered entrance to a building.

*Sill* means is a piece of wood, stone, concrete, or similar material protruding from the bottom of a window frame.

*Stoop* means a small elevated entrance platform or staircase leading to the entrance of a building.

**Sec. 34-994. Exterior walls.**

(a) **Generally.** These standards require commercial buildings to have traditional pedestrian-oriented exteriors and to be clad with typical Florida building materials that are durable and appropriate to the visual environment and climate. Design flexibility and creativity is encouraged using ornamentation from a wide variety of architectural styles.

(b) **Finish materials for walls.** Exterior walls are the most visible part of most buildings. Their exterior finishes shall be as follows:

- (1) Any of the following materials may be used for exterior walls and for columns, arches, and piers:
  - a. Concrete block with stucco (CBS)
  - b. Reinforced concrete (with smooth finish or with stucco)
  - c. Natural stone or brick
  - d. Wood, pressure-treated or naturally decay-resistant species
- (2) Exterior walls may also be covered with fiber-reinforced cement panels or boards, or with cast (simulated) stone or brick.
- (3) Synthetic stucco (an exterior cladding system with a stucco-like outer finish applied over insulating boards) may be used as an exterior wall covering except on principal facades.
- (4) Other materials for exterior walls may be used only if approved as a deviation from this section through the planned development rezoning process or when explicit approval has been granted to vary from these regulations (see § 34-992).
- (5) Fastenings that are required to dry-floodproof the first story of commercial buildings shall be integrated into the design of principal facades or be visually unobtrusive.

(c) **Types of exterior walls.** Principal facades are defined in § 34-993 and their requirements are described in § 34-995. Exterior walls that are *not* defined as principal facades require a lesser degree of finish and transparency, but must meet the following requirements:

- (1) Transparent windows must cover at least 30% of the wall area below the expression line and at least 10% of the wall area between the expression line and the cornice.
- (2) All windows must have their glazing set back

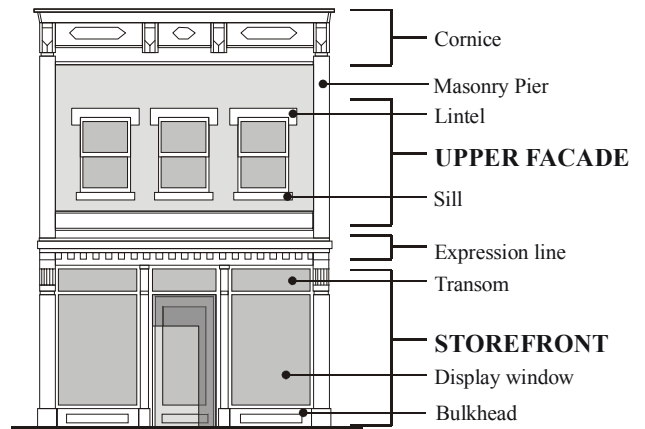
at least 3 inches from the surface plane of the wall, or set back at least 2 inches when wood frame construction is used.

- (3) Rectangular window openings shall be oriented vertically (except for transom windows).

**Sec. 34-995. Principal facade walls.**

(a) **Facade elements.** Principal facades are the primary faces of buildings. Being in full public view, they shall be given special architectural treatment.

- (1) All principal facades shall have a prominent cornice and expression line, a working entrance, and windows (except for side-wall facades where entrances are not required).



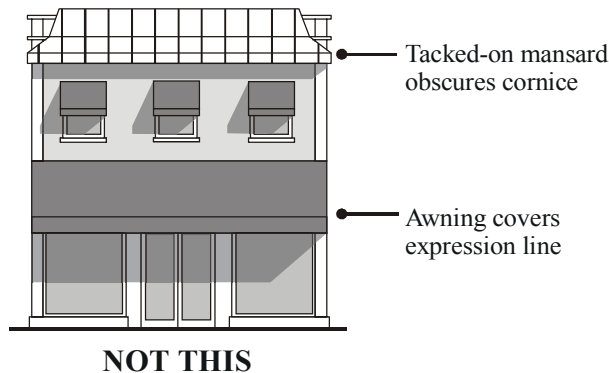
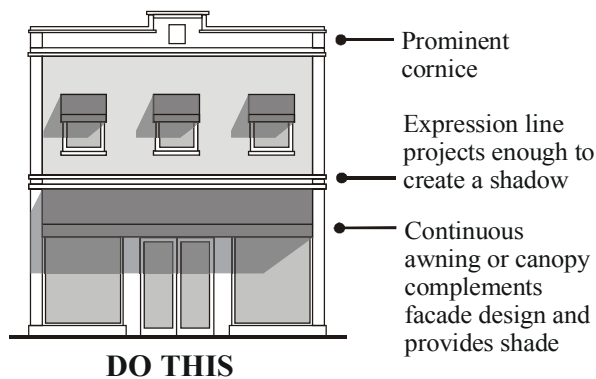
- (2) Buildings wider than 75 feet shall incorporate vertical elements in the principal facade to mimic smaller-scale development.
- (3) Principal facades facing a primary street, plaza, or public park may not have blank walls (without doors or windows) greater than 10 feet in length.
- (4) Expression lines and cornices shall be a decorative molding or jog in the surface plane of the building that extend at least 3 inches out from the principal facade, or a permanent canopy may serve as an expression line.
- (5) Awnings may not hide or substitute for required features such as expression lines and cornices.
- (6) Entrances and windows are addressed in subsections (b) and (c) below.

(b) **Entrances.** A primary entrance and views into the first floor of commercial buildings are fundamental to creating an interesting and safe



pedestrian environment.

- (1) The primary entrance to all buildings shall face the street.
- (2) Corner buildings shall have their primary entrance face either the intersection or the street of greater importance.
- (3) Additional ground floor retail spaces within the same building shall all have their respective primary entrances face streets unless the retail spaces do not adjoin an exterior wall along a street.
- (4) Where building frontages exceed 50 feet, operable doors or entrances with public access shall be provided along streets at intervals averaging no greater than 50 feet.



(c) **Windows.** Every principal facade must contain transparent windows on each story.

- (1) **All windows.**
  - a. Rectangular window openings on principal facades shall be oriented vertically (except for transom windows).
  - b. All windows must:
    1. contain visible sills and lintels on the exterior of the wall, and
    2. have their glazing set back at least 3 inches from the surface plane of the wall, or set back at least 2 inches when wood frame construction is

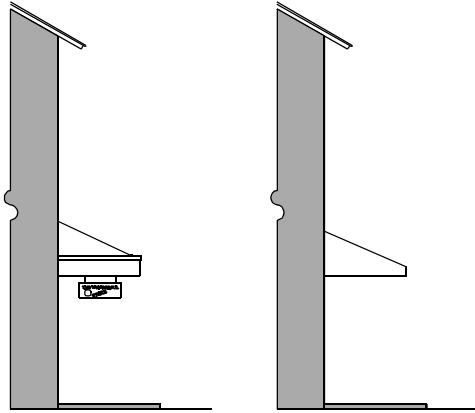
used.

- c. Glass in windows and doors, whether integrally tinted or with applied film, must transmit at least 50% of visible daylight.
- d. See § 34-995(e)(1) regarding awnings.
- (2) **First-story windows.** In order to provide clear views inward and to provide natural surveillance of exterior spaces, the first story of every commercial building's principal facade shall have transparent windows meeting the following requirements:
  - a. Window openings shall cover at least 60% of the wall area below the expression line;
  - b. The bottoms of the window opening can be no higher than 30 inches from sidewalk level; and
  - c. These windows shall be maintained so that they provide continuous view of interior spaces lit from within. Private interior spaces such as offices may use operable interior blinds for privacy.
- (3) **Upper-story windows.**
  - a. All stories above the first story of every commercial building's principal facade shall contain between 15% and 75% of the wall area with transparent windows.
  - b. No single pane of glass may exceed 36 square feet in area.

(d) **Corner buildings.** For buildings located at the intersection of two streets, the corner of the building at the intersection may be angled, curved, or chamfered. The distance from the corner shall not exceed 20 feet measured from the intersection of the right-of-way lines to the end of the angled or curved wall segment, unless a greater amount is required by the visibility triangles in § 34-662(b)(4).

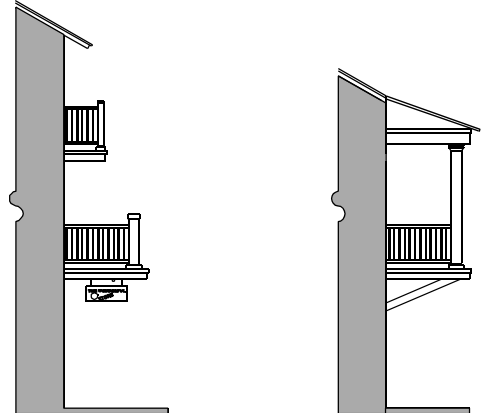
(e) **Facade projections.** Facade projections add visual interest to buildings. Some projections also provide protection from sun and rain for those passing by, others provide additional floor space for the building. The following types of facade projections are permitted as indicated below. At least one of these facade projections is required on each principal facade of all commercial buildings. Along both sides of Old San Carlos Boulevard, a continuous awning or canopy is required over the sidewalk except where the sidewalk is being shaded by an arcade or colonnade.

**(1) Awnings and canopies:**



- a. Awnings and canopies may extend forward of the build-to line (see § 34-662) and may encroach into a street right-of-way.
- b. Awning or canopies extending from the first story cannot exceed the following dimensions:
  - 1. Depth: 5 feet (minimum) and strongly overlapping the sidewalk, but no closer than 2 feet to an existing or planned curb (see § 34-995(e) regarding Old San Carlos Boulevard)
  - 2. Height: the lowest point on an awning or canopy shall be between 9 feet and 12 feet above sidewalk level
  - 3. Length: 25% to 100% of the front of the building
- c. There are no minimum or maximum dimensions for awnings or canopies extending from a second story or higher.
- d. Awnings shall be covered with fabric. High-gloss or plasticized fabrics are prohibited. Backlighting of awnings is prohibited.

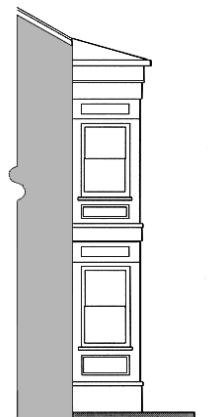
**(2) Balconies:**



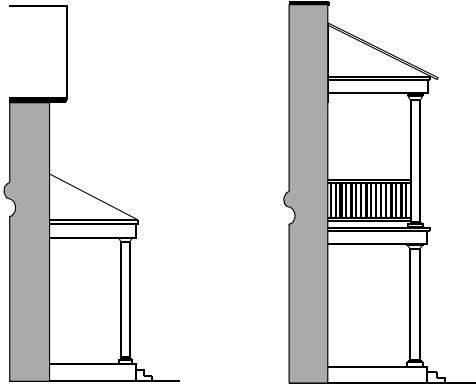
- a. Balconies may extend forward of the build-to line (see § 34-662) and may encroach into a street right-of-way.
- b. Balconies cannot exceed the following dimensions:
  - 1. Depth: 6 feet minimum for second story balconies; and no closer than 2 feet to the existing or planned curb
  - 2. Height: 10 feet minimum if overhanging a sidewalk
  - 3. Length: 25% to 100% of the front of the building
  - 4. Top of railing: 2-3/4" minimum
- c. Balconies may have roofs, but are required to be open, un-airconditioned parts of the buildings.
- d. On corners, balconies may wrap around to the side of the building.

**(3) Bay windows:**

- a. Bay windows may extend forward of the build-to line (see § 34-662) but may not encroach into a street right-of-way.
- b. Awning or canopies extending from the first story cannot exceed the following dimensions:
  - 1. Depth: 3 feet (minimum)
  - 2. Height: 10 feet minimum above sidewalk
  - 3. Length: 6 feet minimum
- c. Bay windows shall have the same details required for principal facades: sills, lintels, cornices, and expression lines.



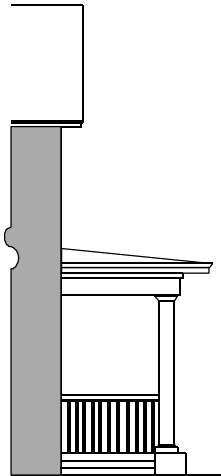
**(4) Porches:**



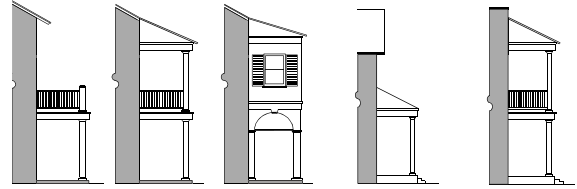
- a. Front porches may extend forward of the build-to line (see § 34-662) but may not encroach into a street right-of-way.
- b. Front porches cannot exceed the following dimensions:
  - 1. Depth: 8 feet (minimum)
  - 2. Length: 25% to 90% of the front of the building; however, no more than 25% of the floor area of a porch shall not be screened if the porch extends forward of the build-to line.
  - 3. Top of railing: 2-3/4" minimum
- c. Front porches may have multi-story verandas and/or balconies above.
- d. Front porches are required to be open, un-airconditioned parts of a building.

**(5) Stoops:**

- a. Stoops may extend forward of the build-to line (see § 34-662) but may not encroach into a street right-of-way or sidewalk without specific approval by the town.
- b. Front porches cannot exceed the following dimensions:
  - 1. Depth: 6 feet (minimum)
  - 2. Length: 5 feet (minimum)
  - 3. Top of railing: 2-3/4" minimum
- c. Stoops may be roofed or unroofed but may not be screened or otherwise enclosed.



**(6) Arcades and colonnades:**



- a. Arcades and colonnades may extend forward of the build-to line (see § 34-662) and may encroach into a street right-of-way if explicit permission is granted by the town.
- b. Arcades and colonnades cannot exceed the following dimensions:
  - 1. Depth: 7 feet minimum from the building front to the inside face of the column
  - 2. No part of the column shall be closer than 2 feet to the existing or planned curb
  - 3. Height: 10 feet minimum above sidewalk
  - 4. Length: 75% to 100% of the front of the building
  - 5. Top of porch railing: 2-3/4" minimum
- c. Open multi-story verandas, awnings, balconies, and enclosed useable space can be constructed above the colonnade.
- d. Arcades and colonnades shall only be constructed where the minimum depth can be obtained.
- e. On corners, arcades and colonnades may wrap around to the side of the building.
- f. Columns shall be spaced no farther apart than they are tall.
- g. Minimum column dimensions with enclosed space above shall be 8 inches.
- h. Minimum column dimension without enclosed space above:
  - 1. Rectangular columns: 6 inches
  - 2. Round columns: 6 inches in diameter

**Sec. 34-996. Roofs.**

**(a) Definitions.**

*Dormer* means a projection from a sloping roof that contains a window and its own roof.

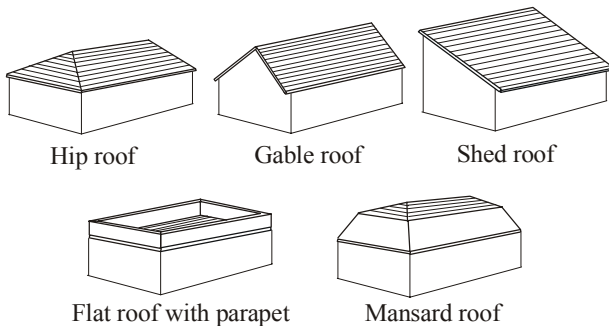
*Gable roof* means a ridged roof forming a gable at both ends.

*Hip roof* means a roof with pitched ends and sides.

*Mansard roof* means a roof having two slopes with the lower slope steeper than the upper, or a single steep slope topped with a flat roof, enclosing the building's top floor. A modern variant is a partial sloped roof that is attached near the top of an exterior wall in place of a traditional cornice or parapet, creating the visual effect of a sloped roof on a flat-roofed building but without enclosing any floor space.

*Parapet* means a short vertical extension of a wall that rises above roof level, hiding the roof's edge and any roof-mounted mechanical equipment.

*Shed roof* means a pitched roof that has only one slope.



**(b) Roof types permitted.** Commercial buildings may have any of the following roof types: hip roofs, gable roofs, shed roofs, flat roofs with parapets, or mansard roofs.

- (1) All flat roofs, and any shed roof with a slope of less than 2 inches vertical per 12 inches horizontal, must have their edges along all streets concealed with parapets.
- (2) All hip roofs and gable roofs, and any shed roof with a slope of more than 2 inches vertical per 12 inches horizontal, must have overhangs of at least 18 inches.

- a. Exposed rafter ends (or tabs) are encouraged.
- b. Wide overhangs are encouraged and can be supported with decorative brackets.
- (3) Mansard roofs are permitted only when the lowest sloped surface begins above a cornice line and then slopes upward and inward.
- (4) Small towers, cupolas, and widow's walks are encouraged (see § 34-631 for maximum dimensions).
- (5) Dormers are permitted and encouraged on sloped roofs.
- (6) Skylight glazing must be flat to the pitch of the roof if the skylight is visible from a primary street, plaza, or public park.

**(c) Roofing materials permitted.** Commercial building roofs may be constructed with one or more of the following roofing materials:

- (1) METAL:
  - a. Steel (galvanized, enameled, or terne-coated)
  - b. Stainless steel
  - c. Copper
  - d. Aluminum
- (2) SHINGLES:
  - a. Asphalt (laminated dimensional shingles only)
  - b. Fiber-reinforced cement
  - c. Metal (same as (a)(1))
- (3) TILES:
  - a. Clay or terra cotta
  - b. Concrete
- (4) FLAT ROOFS:
  - a. Any materials allowed by applicable building codes
- (5) GUTTERS AND DOWNSPOUTS:
  - a. Metal (same as (c)(1))

**(d) Other roof types and materials.** Other types of roofs and roofing materials are prohibited unless explicitly approved in accordance with § 34-992.

**Sec. 34-997. Plazas and courtyards.**

**(a) Generally.** New commercial buildings are generally oriented to public sidewalks. This section addresses other public open spaces that also can affect the orientation of commercial buildings.

**(b) Plazas.** This code contains "build-to lines" (see § 34-662) that require new commercial buildings to be placed near public sidewalks. These

build-to regulations allow up to 25% of a building's frontage to be recessed 10 feet. Plazas meeting the following requirements are permitted to be recessed further than the standard 10 feet:

- (1) The plaza cannot exceed 25% of a building's frontage.
- (2) The plaza is strictly for pedestrian usage and cannot be used to park vehicles.
- (3) All building walls that surround the plaza must meet the design criteria for principal facades.

(c) **Courtyards.** New commercial buildings that are on larger lots may include interior courtyards designed for public or private usage.

- (1) If vehicular circulation is allowed through a courtyard, the only parking permitted will be in parallel spaces.
- (2) Courtyards intended for public use are encouraged to have clear visual linkages between the courtyard and public sidewalks.

(d) **Pedestrian passages.** Pedestrian passages, with or without a lane for vehicles, can be provided on private property to connect a courtyard to the sidewalk system, to provide walkways to parking lots behind buildings, or to provide additional retail frontages.

**Sec. 34-998. Signage.**

(a) **Signs generally.** Chapter 30 of this code regulates signs within the town. The following types of signs are not permitted: billboards; signs elevated on poles; and signs extending perpendicular from a building's facade. New business signs are allowed generally as follows:

- (1) Signs can be painted or attached directly onto buildings walls.
- (2) Low freestanding signs can be built near the ground (except for business located in a multi-occupancy complex having five or more businesses).
- (3) Signs can be mounted onto a marquee that extends out from the front of a building.

(b) **Purpose of this section.** Conventional ground signs are inappropriate for pedestrian-oriented commercial buildings, as are large plastic signs designed to be viewed from a distance. The purpose of this section is to restrict inappropriate wall signs and to replace the ground-sign option with a greater selection of signs that either project out from a building's principal facade or extend above the top of the facade.

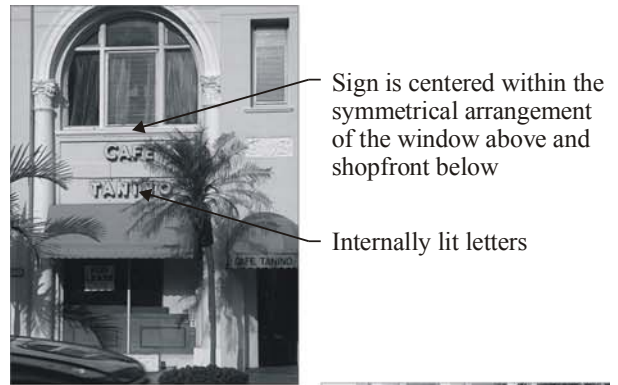
(c) **Ground signs.** Ground signs, as defined in ch. 30, are not permitted for buildings designed in accordance with these standards.

(d) **Wall signs.** Figure 1 shows examples of acceptable wall signs that are placed flat against a principal facade. Internally lit box signs of plastic and/or metal are not permitted.

(e) **Projecting signs.** Figure 2 shows examples of acceptable signs that project out from a principal facade, and Figure 3 shows examples of acceptable signs that extend above the top of a facade. Projecting signs of these types are permitted notwithstanding any prohibitions in ch. 30, provided they are approved in accordance with § 34-992.

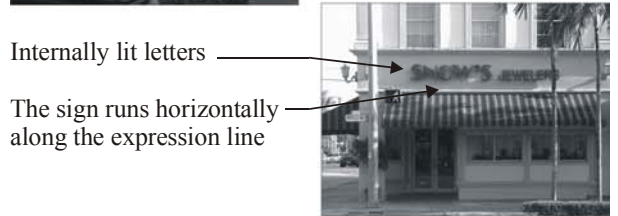
(f) **Location of projecting signs.** Signs designed in accordance with this section may extend over public sidewalks, but must maintain a minimum clear height above sidewalks of 9 feet. Signs shall not extend closer than 2 feet to an existing or planned curb.

**Signs flat against a facade:**



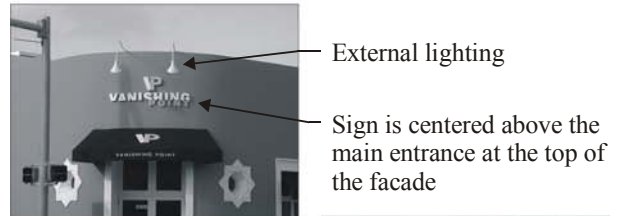
Sign is centered within the symmetrical arrangement of the window above and shopfront below

Internally lit letters



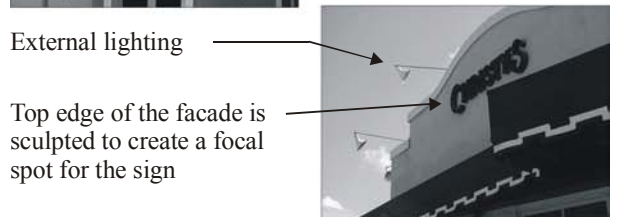
Internally lit letters

The sign runs horizontally along the expression line



External lighting

Sign is centered above the main entrance at the top of the facade



External lighting

Top edge of the facade is sculpted to create a focal spot for the sign



Elegant and reserved cast bronze address plate located at pedestrian eye level



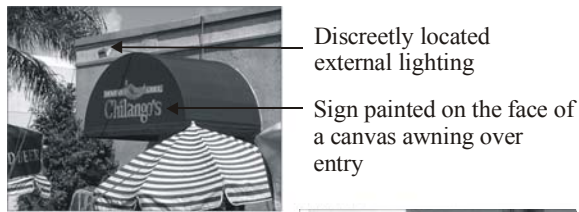
Individual letters are mounted directly on the facade above the main entrance



Internally lit box signs of plastic or metal are designed for commercial strips and are not appropriate for pedestrian oriented streets

Figure 1

**Signs that project out from a facade:**



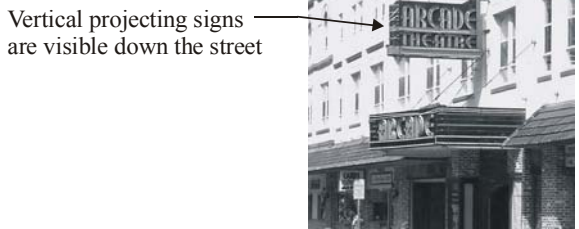
Discreetly located external lighting  
Sign painted on the face of a canvas awning over entry



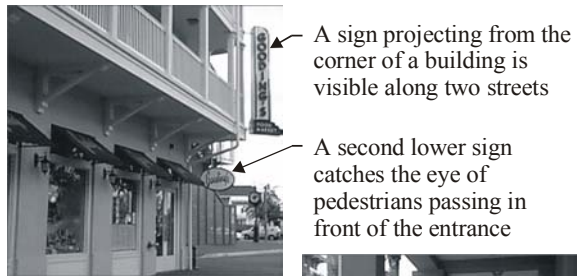
Small projecting signs can be combined with flat wall signs



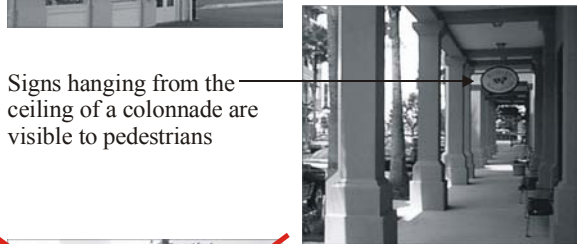
Signs on the sides of awnings are directly in the line of sight of pedestrians



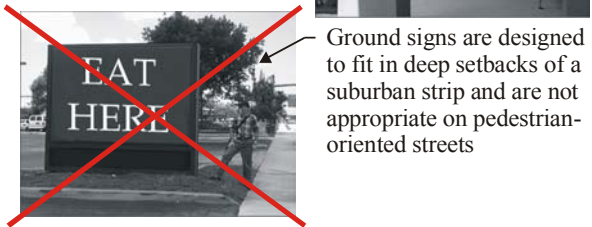
Vertical projecting signs are visible down the street



A sign projecting from the corner of a building is visible along two streets  
A second lower sign catches the eye of pedestrians passing in front of the entrance

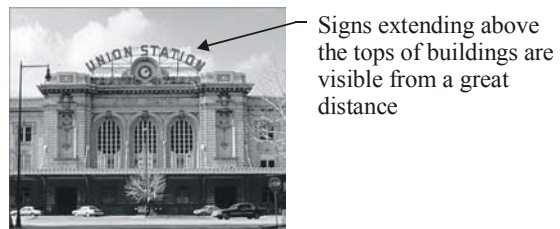


Signs hanging from the ceiling of a colonnade are visible to pedestrians

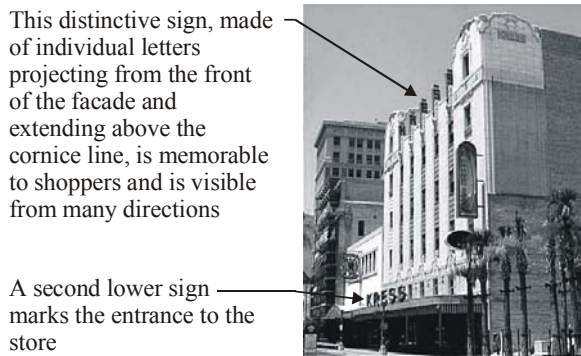


Ground signs are designed to fit in deep setbacks of a suburban strip and are not appropriate on pedestrian-oriented streets

**Signs that extend above the top of a facade:**

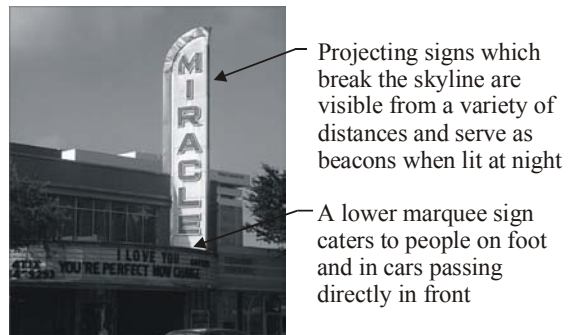


Signs extending above the tops of buildings are visible from a great distance



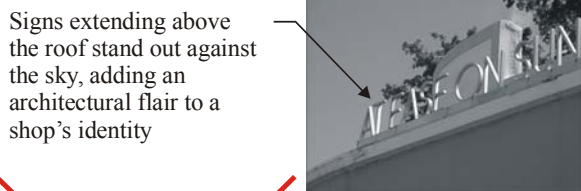
This distinctive sign, made of individual letters projecting from the front of the facade and extending above the cornice line, is memorable to shoppers and is visible from many directions

A second lower sign marks the entrance to the store

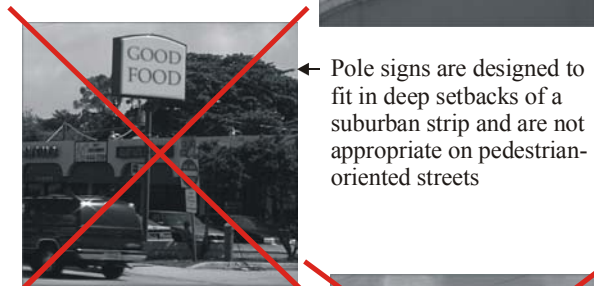


Projecting signs which break the skyline are visible from a variety of distances and serve as beacons when lit at night

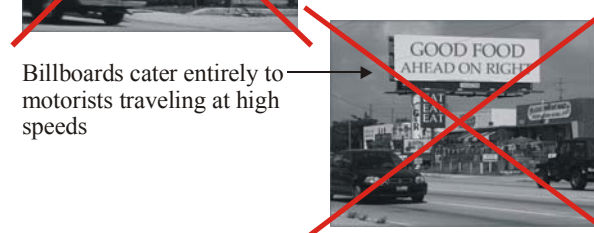
A lower marquee sign caters to people on foot and in cars passing directly in front



Signs extending above the roof stand out against the sky, adding an architectural flair to a shop's identity



Pole signs are designed to fit in deep setbacks of a suburban strip and are not appropriate on pedestrian-oriented streets



Billboards cater entirely to motorists traveling at high speeds

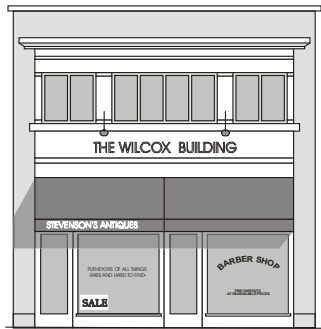
Figure 2

Figure 3

(g) **Size of signs.** Maximum gross area of all signs on a given facade shall not exceed 32 square feet.

(h) **Illumination of signs.** Signs shall be illuminated externally only, except that individual letters and symbols may be internally lit.

(i) **Placement of signs on principal facades.** The following illustration shows correct and incorrect placement of signs on principal facades.



- Signs are coordinated in size and placement with the building and storefront

**DO THIS**



- Building sign conceals the cornice
- Over-varied shapes create visual confusion
- Awning sign covers the masonry piers
- Sale sign too large for storefront and poorly placed in display window

**NOT THIS**



## Exhibit C

# AMENDMENTS TO CHAPTER 34 OF THE FORT MYERS BEACH LAND DEVELOPMENT CODE

## ARTICLE VII

### DIVISION 12-A. DRUG PARAPHERNALIA

#### Sec. 34-1551. Drug paraphernalia defined.

The term “drug paraphernalia” means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, transporting, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of state law. Drug paraphernalia includes, but is not limited to:

- (1) Kits used, intended for use, or designed for use in the planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
- (2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.
- (3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance.
- (4) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness, or purity of, controlled substances.
- (5) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.
- (6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, used, intended for use, or designed for use in cutting controlled substances.
- (7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, cannabis.
- (8) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances.
- (9) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.
- (10) Containers and other objects used, intended for use, or designed for use in storing, concealing, or transporting controlled substances.
- (11) Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body.
- (12) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing cannabis, cocaine, hashish, hashish oil, or nitrous oxide into the human body, such as:
  - a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes, with or without screens, permanent screens, hashish heads, or punctured metal bowls.
  - b. Water pipes.
  - c. Carburetion tubes and devices.
  - d. Smoking and carburetion masks.
  - e. Roach clips, meaning objects used to hold burning material, such as a cannabis cigarette, that has become too small or too short to be held in the hand.
  - f. Miniature cocaine spoons and cocaine vials.
  - g. Chamber pipes.
  - h. Carburetor pipes.
  - i. Electric pipes.
  - j. Air-driven pipes.
  - k. Chillums.
  - l. Bongs.

- m. Ice pipes or chillers.
- n. A cartridge or canister, which means a small metal device used to contain nitrous oxide.
- o. A charger, sometimes referred to as a “cracker,” which means a small metal or plastic device that contains an interior pin that may be used to expel nitrous oxide from a cartridge or container.
- p. A charging bottle, which means a device that may be used to expel nitrous oxide from a cartridge or canister.
- q. A whip-it, which means a device that may be used to expel nitrous oxide.

**Sec. 34-1552. Determination of paraphernalia.**

In determining whether an object is drug paraphernalia, the hearing examiner, court, jury, or other enforcing authority shall consider, in addition to all other logically relevant factors, the following:

- (1) Statements by an owner or by anyone in control of the object concerning its use.
- (2) The proximity of the object, in time and space, to a direct violation of state law.
- (3) The proximity of the object to controlled substances.
- (4) The existence of any residue of controlled substances on the object.
- (5) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons who he or she knows, or should reasonably know, intend to use the object to facilitate a violation of state law. The innocence of an owner, or of anyone in control of the object, as to a direct violation of this code or state law shall not prevent a finding that the object is intended for use, or designed for use, as drug paraphernalia.
- (6) Instructions, oral or written, provided with the object concerning its use.
- (7) Descriptive materials accompanying the object which explain or depict its use.
- (8) Any advertising concerning its use.
- (9) The manner in which the object is displayed for sale.
- (10) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor of or dealer in tobacco products.

- (11) Direct or circumstantial evidence of the ratio of sales of the object or objects to the total sales of the business enterprise.
- (12) The existence and scope of legitimate uses for the object in the community.
- (13) Expert testimony concerning its use.

**Sec. 34-1553. Manufacture and delivery of drug paraphernalia.**

No land or structure shall be used or permitted to be used, and no structure shall hereafter be erected, constructed, moved, altered, or maintained in any zoning district, for the purpose of delivering, possessing with intent to deliver, or manufacturing with intent to deliver drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used:

- (1) To plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or conceal a controlled substance in violation of state law; or
- (2) To inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of state law.