

MEMORANDUM OF UNDERSTANDING (“MOU”) BETWEEN THE TOWN OF HENLOPEN ACRES (“TOWN”) AND THE REHOBOTH ART LEAGUE (“RAL”) REGARDING THE SCOPE OF THE RAL’S EXISTING LEGAL NON-CONFORMING USE AUTHORIZATION

Recitals:

- A. As many of the speakers at the RAL’s 75th anniversary celebration emphasized, the RAL is a “special place.” Its specialness, however, derives in large part from the specialness of the unique Henlopen Acres community in which it is located. Expansion of the scope and the frequency of the RAL’s activities at its Henlopen Acres property, and/or expansion of its facilities in Henlopen Acres, will increase the impacts of the RAL on neighboring properties and on the neighborhood in general and is inconsistent with the residential character of the Henlopen Acres community. The Town and the RAL agree, therefore, that appropriate regulations should be put in place that permit the RAL to reasonably utilize its property while minimizing adverse impacts on its neighbors and the community. Such regulations will help preserve the special qualities of both the Henlopen Acres community and the RAL itself and will permit a more cooperative and supportive relationship between the Town and the RAL.
- B. The RAL has confirmed that it has no intention or desire to change or expand the nature of its activities in Henlopen Acres, or to increase the frequency or intensity of its activities, compared to what they have been in recent years. The RAL has also confirmed that it does not intend or desire to expand or materially change its facilities in Henlopen Acres, but wishes merely to be assured of its right and ability to maintain and update its facilities as necessary, without changing their size, location on the property or current use.
- C. The RAL and the Town agree that the primary factors that affect the impact of the RAL’s activities on the Henlopen Acres community are the frequency of public events at the RAL, the number of people and automobiles attending such events, the location of the events on the RAL campus (i.e. whether held indoors or outdoors), the time of day at which the events are held, the duration of the events, and the nature of the events in terms of their potential to generate noise.
- D. Under the Town’s zoning regulations and ordinances, the RAL’s activities on its Henlopen Acres property, constitute a grandfathered, legal non-conforming use within the Town’s Residential Zone, and the RAL’s facilities constitute non-conforming structures. Its non-conforming status imposes operational limitations on the RAL that both the Town and the RAL would like to clarify.

Agreement:

In order to clarify the scope of the RAL's existing legal non-conforming use authorization, consistent with the Recitals set forth above, the Town and the RAL hereby agree as follows:

1. This agreement shall be in place for an initial term of one year beginning on January 1, 2015. At the end of the one year trial period, the agreement can be extended by mutual agreement, modified or terminated.
2. At least 30 days prior the commencement of each calendar year, the RAL shall submit to the Town a calendar of planned activities for the upcoming year. In particular the calendar shall highlight any activity that is expected to draw more than 50 people and 25 cars into the neighborhood. During the year, the RAL's Executive Director shall meet with the Town Manager quarterly to Review the activities for the past quarter, the future activities and any changes or revisions to the annual calendar.

Low Impact Events and Activities

3. The RAL is permitted to keep its galleries and museum shop open to the public, unrelated to specific events or classes, Monday through Saturday, 9 a.m. through 5 p.m. and Sunday, 10 a.m. through 4 p.m.
4. The RAL is permitted to conduct indoor public events, classes and activities between the hours 9 a.m. – 5 p.m., Monday – Friday (except holidays)) that are reasonably related to the traditional visual arts (painting, drawing, photography, sculpture, ceramics, crafts)¹ and are not intended or reasonably expected to attract more than 50 people and/or 25 cars into the neighborhood. The total number and frequency of such events per month and per year shall be consistent with and not in excess of the number and frequency of such events in recent past years. In addition, there will not be more than 4 such events on any one day, and, if the timing of such events on any day overlap, the overlapping events must not be intended or reasonably be expected to cumulatively attract more than 50 people and/or 25 cars into the neighborhood.
5. Not more than 2 days per week classes may be conducted after 5 p.m. up to

¹ The term "reasonably related to the traditional visual arts" as used herein means that the art in question is the focus of the event. Questions as to whether specific events would or would not be considered by the Town to qualify as "reasonably related to the traditional visual arts" should be addressed in good faith to the Town Manager who will, in turn, respond in good faith.

as late as 9 p.m., but, whenever possible, use of these extended hours shall be minimized.

Medium Impact Events and Activities

6. The RAL is permitted to conduct 1 artist opening per month that will be held indoors between 5p.m. and 7p.m. Many of these events will be low impact events (attracting less than 50 people or 25 cars), but up to 3 of the openings per year and up to 3 of the RAL's monthly Board meetings per year, can be medium impact events, meaning that they are expected to attract up to 100 people or 50 cars. To the extent possible, any medium impact event should be identified on the annual calendar referenced in Item 2 and discussed with the Town Manager at the prior quarterly meeting. If not so identified or discussed, it should be discussed with the Town Manager at least two weeks before it is publically announced,

High Impact Events and Activities

7. The RAL is permitted to conduct its Young at Art Show in March, its Holiday Fair in December, and its Annual Cottage Tour in July during the hours and for the durations in which those events have been conducted in the recent past. The RAL is also permitted to conduct its traditional public art show on two consecutive weekends in August with the goal of not increasing the size of or scope of the show.² If the art show continues to grow beyond its current size and scope, the RAL will investigate suitable off campus locations for the show along with other medium and high impact events with the goal of maintaining the current status quo of activity in Henlopen Acres. The specific dates for each of these events should be shown on the annual calendar referenced in Item 2.

General

8. The RAL is not be permitted to rent out or donate its property or facilities for private events such as weddings, bat mitzvahs, graduation parties, fund raisers, etc.
9. The RAL, in consultation with the Town Manager, shall develop a parking plan, which will apply when an event attracts more cars than the RAL's parking lot can accommodate. The Town agrees to provide up to 10 parking

² The RAL has indicated that it may in the future wish to conduct the art show from Thursday to Sunday of a single week, rather than on Saturday and Sunday of two consecutive weekends. The Town is open to discussing such a change.

spaces at the Marina for overflow and additional parking on the Town right of way in front of the Marina in coordination with the Town Manager, but no more than 10 days per year.

10. The RAL can apply to the Town Manager for authority to (i) hold additional public events reasonably related to the traditional visual arts that are reasonably expected to attract more than 50 people and/or 25 cars, or (ii) hold public events not reasonably related to the traditional visual arts, or (iii) hold outdoor public events of any type. Such requests shall be limited to one per month and no filing fee shall apply. In acting on such requests, the Town Manger will consider and evaluate the impacts of the proposed event in terms of the impact factors described in Recital C.
11. If the Town Manager denies such a request, the RAL may appeal the denial to the Board of Commissioners. The prevailing filing fee applicable to a request for a variance shall apply to such appeals. [Alternate: In order to avoid attorney and stenographer costs, and thus obviate the need for filing fees, any such appeals will be conducted on an informal basis and the decision of the Board shall be final and non-appealable.]
12. If at any time while the agreement in effect, any structure on the RAL property is more than 80% destroyed by natural disaster or accident, the Town will support the prompt grant of a variance to the RAL to permit the structure to be re-built to its pre-existing specification and uses, and will support waiver of the applicable filing fee.
13. No events conducted or authorized hereunder shall expand or affect the RAL's non-conforming use or affect the RAL's status as a non-conforming use within a residential zone.
14. This agreement shall be construed, interpreted and implemented consistent with the Recitals set forth above.

Accepted and agreed to this ___ day of _____

[Insert signature blocks]

Year	2009	2010	2011	2012	2013	2014
January				January Opening		
February					February Opening Bertha Riley	February Opening College Artists
March		Young at Art Opening	Young at Art Opening	Young at Art Opening and March Opening Fred Comegys	Young at Art	Member Showcase
April	Young at Art, Opening	April Opening, Exhibits	April Opening	April Opening	April Opening	
May	May Opening exhibits				May Opening	Members Craft Exhibition & Opening
June	June Opening, Crafts	June Opening Fine Arts	June Opening Fine Craft	June Opening Fine Arts and (Shakespeare in the Garden)*	June Opening Fine Arts and annual Meeting and Diamond Celebration	Best of the Beach Art Auction
July	July Opening fine Art and Cottage Tour	July Opening and Cottage Tour	July Opening and Cottage Tour	July Opening and Cottage Tour	July Opening and Cottage Tour	July opening Members Fine Art Exhibition, Cottage Tour
Aug	Art Show	Art Show	Art Show	Art Show and Opening Paintings	Art Show and August Opening	41st Annual Fine Art Show, Members Openig Aina Nergaard- Namaak

Sept	September Opening	September Opening	September Opening			
Oct		October Opening		October Opening	October Opening	6th Annual Juried Biannual Show
Nov	Holiday Fair, 500 attendees		Holiday Fair and November Opening and Open House Holiday Flair	Holiday Fair	Holiday Fair	Holiday Fair
Dec				Open House	Holiday Open House	Holiday Open House
Total Events	8	8	10	13	14	11

***Note, Shakespeare in the Garden was an outdoor event that would not likely be approved.**

Classes etc			
Year	2012	2013	2014
January	38 classes, 10 evening, 2 Saturday	30 classes, 15 evening, 3 Saturday	31 classes, 10 evening, 4 Saturday, 0 Sunday
February	42 classes, 14 evening, 0 Saturday	25 classes, 13 evening, 2 Saturday	18 classes, 10 evening, 3 Saturday, 2 Sunday
March	47 classes, 26 evening, 0 Saturday	21 classes, 14 evening, 0 Saturday	27 classes, 13 evening, 5 Saturday, 0 Sunday
April	39 classes, 18 evening, 1 Saturday, 1 Sunday	20 classes, 11 evening, 2 Saturday, 1 Sunday	22 classes, 10 evening, 3 Saturday, 1 Sunday
May	52 classes, 24 evening, 1 Saturday, 1 Sunday	21 classes, 10 evening, 3 Saturday, 2 Sunday	20 classes, 10 evening, 1 Saturday, 0 Sunday
June	56 classes, 18 evening, 1 Saturday, 1 Sunday, Plus 34 Kids classes	42 classes, 6 evening, 0 Saturday, 0 Sunday	56 classes, 6 evening, 0 Saturday, 1 Sunday
July	51 classes, 11 evening, 1 Saturday, 2 Sunday, Plus 53 kids classes	77 classes, 2 evening, 0 Saturday, 0 Sunday	68 classes, 2 evening, 0 Saturday, 0 Sunday
Aug	35 classes, 6 evening, 1 Saturday, Plus 37 kids classes	31 classes, 2 evening, 0 Saturday, 0 Sunday	25 classes, 2 evening, 0 Saturday, 1 Sunday

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Sept	31 classes, 9 evening, 2 Saturday, 1 Sunday	17 classes, 5 evening, 1 Saturday, 1 Sunday	20 classes, 6 evening, 1 Saturday, 0 Sunday
Oct	42 classes, 11 evening, 2 Saturday, 1 Sunday	18 classes, 5 evening, 1 Saturday, 1 Sunday	16 classes, 7 evening, 1 Saturday, 1 Sunday
Nov	27 classes, 8 evening	9 classes, 5 evening, 0 Saturday, 0 Sunday	10 classes, 5 evening, 0 Saturday, 1 Sunday
Dec	21 classes, 4 evening	5 classes, 3 evening, 0 Saturday, 0 Sunday	7 classes, 3 evening, 0 Saturday, 2 Sunday