

ORDINANCE NO. 22-22

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF DELRAY BEACH CODE OF ORDINANCES, BY AMENDING CHAPTER 4, "ZONING REGULATIONS", ARTICLE 4.3, "DISTRICT REGULATIONS, GENERAL PROVISIONS, SECTION 4.3.3, "SPECIAL REQUIREMENTS FOR SPECIFIC USES," SUBSECTION (Q), "GUEST COTTAGES," TO AMEND REGULATIONS GOVERNING GUEST COTTAGES, AND CREATING SUBSECTION (QQ), "ACCESSORY STRUCTURES," TO ADOPT REGULATIONS GOVERNING ACCESSORY RESIDENTIAL STRUCTURES; AMENDING ARTICLE 4.4, "BASE ZONING DISTRICT," SECTION 4.4.2, "RURAL RESIDENTIAL (RR) DISTRICT," SECTION 4.4.3, "SINGLE FAMILY RESIDENTIAL (R-1) DISTRICTS," SECTION 4.4.5, "LOW DENSITY RESIDENTIAL (RL) DISTRICT," SECTION 4.4.6, "MEDIUM DENSITY RESIDENTIAL (RM) DISTRICT," AND SECTION 4.4.17, "RESIDENTIAL OFFICE (RO) DISTRICT, TO REFERENCE THE SPECIAL REQUIREMENTS FOR ACCESSORY STRUCTURES; AMENDING SECTION 4.4.7, "PLANNED RESIDENTIAL DEVELOPMENT (PRD) DISTRICT," TO ADD GUEST COTTAGES AS AN ACCESSORY USE AND TO REFERENCE THE SPECIAL REQUIREMENTS FOR ACCESSORY STRUCTURES; AND AMENDING APPENDIX A, "DEFINITIONS," RELATIVE TO ACCESSORY STRUCTURES; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AUTHORITY TO CODIFY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Land Development Regulations ("LDR") of the City of Delray Beach ("City") Code of Ordinances provide authority for the City Commission to amend, change, supplement, or repeal the LDR from time to time; and

WHEREAS, the City desires to adopt regulations for accessory structures in residential zoning districts to promote compatible structures that result in aesthetically harmonious neighborhoods; and

WHEREAS, pursuant to Florida Statutes 163.3174(4)(c), the Planning and Zoning Board for the City of Delray Beach, sitting as the Local Planning Agency, considered this item at a public hearing on June 20, 2022, and voted ___ to ___ to recommend these proposed text amendments be approved, finding the request and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations; and

WHEREAS, the City Commission of the City of Delray Beach finds this Ordinance is consistent

with the Comprehensive Plan, meets the criteria set forth the Land Development Regulations, and is in the best interests of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. The recitations set forth above are incorporated herein.

Section 2. Article 4.3, “Base Zoning District,” Section 4.3.3, “Special requirements for specific uses” of the Land Development Regulations of the City of Delray Beach, Florida, is hereby amended as follows:

Sec. 4.3.3. Special requirements for specific uses.

(A) - (P) (These subsections shall remain in full force and effect as adopted.)

(Q) *Guest cottage.*

- (1) Can only be used by members of the family occupying the principal dwelling, their nonpaying guests, (except in Bed and Breakfast Inns), or persons employed for service on the premises.
- (2) The guest cottage shall not occupy more than one-twentieth of the lot area and in no case shall exceed a floor area of 700 square feet. Guest cottages greater than 350 square feet are subject to the standards in Section 4.3.3(QQ)(3).
- (3) The structure shall be located to observe the setback requirements as imposed for the principal structure.
- (4) When located on individually designated historic properties or within designated historic districts, the structure shall not exceed the height of the principal structure.
- (5) Only one-~~(1)~~ guest cottage shall be allowed on a property.

(QQ)Accessory structures. To promote aesthetically harmonious neighborhoods in residential zoning districts, accessory uses and structures must comply with the regulations herein.

- (1) The height of an accessory structure shall not exceed the height of the principal structure. Screen enclosures without a solid roof are excluded from this limit.
- (2) The floor area of an accessory structure shall not exceed 40 percent of the floor area of the principal structure.

(3) Accessory structures larger than 350 square feet or taller than 10 feet are subject to the following standards:

- (a) Must be designed with a similar architectural style and be finished with materials similar in appearance to the principal structure.
- (b) Must provide foundation landscaping, in accordance with Section 4.6.16, along the entire building frontage, if visible from the right of way.
- (c) All doors, including garage and overhead doors, must have a decorative appearance consistent with the overall architectural style of the primary residential structure.
- (d) Blank walls visible from the right-of-way are prohibited. Fenestration consistent with the design and appearance of the principal structure and/or design treatments such as trellises with climbing vines or other plant materials, or architectural details may be used to avoid the appearance of blank walls.

(R) - (ZZZZ) (These subsections shall remain in full force and effect as adopted.)

Section 3. Article 4.4, “Base Zoning District,” Section 4.4.2, “Rural Residential (RR) Zone District” of the Land Development Regulations of the City of Delray Beach, Florida, is hereby amended as follows:

(A) - (B) (These subsections shall remain in full force and effect as adopted).

(C) ***Accessory uses and structures permitted.*** The following uses and structures are allowed when a part of, or accessory to, the principal use:

- (1) The keeping of livestock normally associated with a rural environment ~~such as: fowl, goats, horses, and ponies.~~ However, the keeping of such livestock is for domestic use only; commercial use or sale of such livestock is prohibited.
- (2) Uses and structures normally associated with residences, such as: bird aviaries, ~~boat docks,~~ dog houses and dog runs, detached garages, greenhouses, guest cottages, playhouses, pool houses ~~and covers, pump houses,~~ slat houses, storage sheds, tennis courts, and workshops, ~~and home occupations,~~ subject to Section 4.3.3(QQ).
- (3) Home-based businesses, subject to Section 4.3.3(K).
- (34) Urban Agriculture pursuant to regulations set forth in, subject to Section 4.3.3(D).
- (5) Boat docks, subject to Article 7.9.
- (6) Guest cottages, subject to Section 4.3.3(Q).

(D) – (G) (These subsections shall remain in full force and effect as adopted).

Section 4. Article 4.4, “Base Zoning District,” Section 4.4.3, “Single Family Residential (R-1) Districts” of the Land Development Regulations of the City of Delray Beach, Florida, is hereby amended as follows:

Sec. 4.4.3. Single Family Residential (R-1) Districts.

(A) - (B) (These subsections shall remain in full force and effect as adopted).

(C) ***Accessory uses and structures permitted.*** The following uses and structures are allowed when a part of, or accessory to, the principal use:

- (1) Uses and structures normally associated with residences, such as: bird aviaries, ~~boat docks~~, dog houses and dog runs, detached garages, greenhouses, ~~guest cottages~~, playhouses, pool houses and ~~covers, pump houses~~, slat houses, storage sheds, tennis courts, swimming pools, and workshops.
- (2) Home-based business, subject to Section 4.3.3(K).
- (3) Family day care home ~~pursuant~~, subject to Section 4.3.3(T).
- (~~54~~) Recreational facilities attendant to a subdivision which is operated under a ~~bonafide~~ homeowners association, such as: tennis courts, swimming pools, exercise area, clubhouse, and golf courses.
- (5) Boat docks, subject to Article 7.9. ~~(6)~~—The rental or lease of a boat dock is allowed when the dock is assigned to, or on the same lot as each residential use on a one-to-one basis.
- (6) Guest cottages, subject to Section 4.3.3(Q).

(D) - (G) (These subsections shall remain in full force and effect as adopted).

(H) ***Special regulations.***

- (1) Accessory structures are subject to Section 4.3.3(QQ). ~~The height of accessory structures shall not exceed the height of the associated principal structure. Screen enclosures without a solid roof are excluded from this limit.~~
- (2) ~~The floor area of an accessory structure shall not exceed 40 percent of the floor area of the principal structure.~~

(I) - (J) (These subsections shall remain in full force and effect as adopted).

Section 5. Article 4.4, “Base Zoning District,” Section 4.4.5, “Low Density Residential (RL) District” of the Land Development Regulations of the City of Delray Beach, Florida is hereby amended as follows:

Sec. 4.4.5. Low Density Residential (RL) District.

(A) - (B) (These subsections shall remain in full force and effect as adopted.)

(C) ***Accessory uses and structures permitted.*** The following uses and structures are allowed when a part of, or accessory to, the principal use:

- (1) Uses and structures normally associated with residences, such as: bird aviaries, ~~boat docks~~, dog houses and dog runs, detached garages, greenhouses, playhouses, pool houses and covers, pump houses, slat houses, storage sheds, tennis courts, and workshops.
- (2) Family day care home ~~pursuant~~, subject to Section 4.3.3(T).
- (3) Home occupations, subject to Section 4.3.3(K).
- (4) Recreational facilities attendant to a subdivision which are operated under a ~~bonafide~~ homeowners association, such as: tennis courts, swimming pools, exercise area, clubhouse, and private golf courses.
- (5) Boat docks, subject to Article 7.9. The rental or lease of a boat dock is allowed when the dock is assigned to, or on the same lot as, each residential use on a one-to-one basis.
- (6) Guest cottages, ~~only when accessory to a single family detached structure~~ subject to Section 4.3.3(Q).
- (7) Community Gardens ~~in connection with an approved multi family development pursuant to regulations set forth in,~~ subject to Section 4.3.3(D).

(D) – (G) (These subsections shall remain in full force and effect as adopted.)

(H) ***Special regulations.***

- (1) A minimum density of three units per acre is established for duplex and multiple family housing ~~projects~~ within this district. Density may exceed the base of three units per acre only after the approving body makes a finding that the project has substantially complied with performance standards as listed in 4.4.5(I). In no event shall a development's total density exceed six units per acre. The density for a specific RL development may be further limited by a numerical suffix affixed to the designation and shown on the zoning map (i.e. RL-5 limits the density to five units

per acre). To seek a density greater than allowed by the suffix, it is necessary to rezone the property.

- (2) Notwithstanding the above, a duplex may be situated upon a platted lot pursuant to Section 4.3.4(I)(3)(b).
- (3) ~~The height of accessory structures shall not exceed the height of the associated principal structure. Screen enclosures without a solid roof are excluded from this limit. Accessory structures are subject to Section 4.3.3(QQ).~~
- (4) ~~The floor area of an accessory structure shall not exceed 40 percent of the floor area of the principal structure.~~
- (54) Recreational areas shall be required for all new rental apartment developments, and of owner occupied developments which have homeowner associations ~~that must care~~ responsible for the maintenance of retention areas, private streets, or common areas. New developments must include recreational features ~~that are~~ designed to accommodate activities for children and youth of all age ranges. Tot lots are appropriate for toddlers; features such as a basketball court, volleyball court, and open playfields are appropriate for older children. A pool and clubhouse, unless specifically designed for children, ~~is not considered to~~ does not meet this requirement. Projects having fewer than 25 units may be exempted from this standard where it is determined by the approving body that it is not practical or feasible to comply.

(I) (This subsection shall remain in full force and effect as adopted.)

Section 6. Article 4.4, “Base Zoning District,” Section 4.4.6, “Medium Density Residential (RM) District” of the Land Development Regulations of the City of Delray Beach, Florida is hereby amended as follows:

Sec. 4.4.6. Medium Density Residential (RM) District.

(A) - (B) (These sections shall remain in full force and effect as adopted).

(C) ***Accessory uses and structures permitted.*** The following uses and structures are allowed when a part of, or accessory to, the principal use:

- (1) Uses and structures normally associated with residences, such as: bird aviaries, ~~boat docks,~~ dog houses and dog runs, detached garages, greenhouses, playhouses, pool houses and covers, pump houses, slat houses, storage sheds, tennis courts, workshops, and swimming pools, ~~and home-based businesses.~~
- (2) Family day care home pursuant to Section 4.3.3(T).

(3) Home occupations, subject to Section 4.3.3(K).

~~(34)~~ Recreational facilities attendant to a subdivision which is operated under a ~~bonafide~~ homeowners association, such as: tennis courts, swimming pools, exercise area, clubhouse, and private golf courses.

~~(45)~~ Boat docks, subject to Article 7.9. The rental or lease of a boat dock is allowed when the dock is assigned to, or on the same lot as, each residential use on a one-to-one basis.

~~(56)~~ Guest cottages, ~~only when accessory to a single family detached structure,~~ subject to Section 4.3.3(Q).

~~(67)~~ Community Gardens ~~in connection with an approved multi-family development pursuant to regulations set forth in ,~~ subject to Section 4.3.3(D).

(D) - (G) (These subsections shall remain in full force and effect as adopted).

(H) *Special regulations.*

(1) - (2) (These subsections shall remain in full force and effect as adopted).

(3) Recreational areas shall be required for all new rental apartment developments, and of owner occupied developments which have homeowner associations ~~that must care~~ responsible for the maintenance of retention areas, private streets, or common areas. New developments must include recreational features ~~that are~~ designed to accommodate activities for children and youth of all age ranges. Tot lots are appropriate for toddlers; features such as a basketball court, volleyball court, and open playfields are appropriate for older children. A pool and clubhouse, unless specifically designed for children, ~~is not considered to~~ does not meet this requirement. Projects having fewer than 25 units may be exempted from this standard where it is determined by the approving body that it is not practical or feasible to comply.

(4) Accessory structures are subject to Section 4.3.3(QQ). The height of accessory structures shall not exceed the height of the associated principal structure. Screen enclosures without a solid roof are excluded from this limit.

~~(5)~~ The floor area of an accessory structure shall not exceed 40 percent of the floor area of the principal structure.

~~(6)~~(5) Density bonuses. Density bonuses may be granted to eligible properties governed by regulations set forth in Chapter 4, "Zoning Regulations", "Family/Workforce Housing" as discussed below:

- (a) ***Southwest Neighborhood and Carver Estates Overlay Districts and Infill Workforce Housing Area:*** Density bonuses above 12 units per acre may be granted as a Conditional Use to eligible properties within the Southwest Neighborhood and Carver Estates Overlay Districts, defined in Section 4.5.9 and 4.5.11, respectively, and within the Infill Workforce Housing Area, Section 4.5.12, subject to the regulations set forth in Chapter 4, "Zoning Regulations", and Article 4.7, "Family/Workforce Housing".
- (b) ***S.W. 10th Street Overlay District:*** Within the S.W. 10th Street Overlay District defined in Section 4.5.10, in addition to the performance standards listed in Section 4.4.6(I), increases to a project's density beyond six units per acre is subject to the regulations set forth in Chapter 4, "Zoning Regulations", "Family/Workforce Housing".

(I) (This section shall remain in full force and effect as adopted).

Section 7. Article 4.4, "Base Zoning District," Section 4.4.7, "Planned Residential Development (PRD) District" of the Land Development Regulations of the City of Delray Beach, Florida is hereby amended as follows:

(A) - (B) (These subsections shall remain in full force and effect adopted).

(C) ***Accessory uses and structures permitted.*** The following uses and structures are allowed when a part of, or accessory to, the principal use:

- (1) Uses and structures normally associated with residences, such as: bird aviaries, ~~boat docks,~~ dog houses and dog runs, detached garages, greenhouses, playhouses, pool houses ~~and covers,~~ ~~pump houses,~~ slat houses, storage sheds, tennis courts, and workshops, ~~and home-based businesses.~~
- (2) Family Day Care Home ~~pursuant,~~ subject to Section 4.3.3(T).
- (3) Home occupations, subject to Section 4.3.3(K).
- (~~34~~) Recreational facilities attendant to a subdivision which is operated under a ~~bonafide~~ homeowners association such as: tennis courts, swimming pools, exercise area, clubhouse, and private golf courses.
- (5) Boat docks, subject to Article 7.9. The rental or lease of a boat dock is permitted when the dock is assigned to, or on the same lot as, each residential use on a one-to-one basis.
- (6) Guest cottages, subject to Section 4.3.3(Q).

(D) -(G) (These subsections shall remain in full force and effect as adopted).

(H) ***Special regulations.***

(1) – (2) (These subsections shall remain in full force and effect as adopted).

(3) Accessory structures are subject to Section 4.3.3(QQ). The height of accessory structures shall not exceed the height of the associated principal structure. Screen enclosures without a solid roof are excluded from this limit.

~~(4) The floor area of an accessory structure shall not exceed 40 percent of the floor area of the principal structure.~~

Section 8. Article 4.4, “Base Zoning District,” Section 4.4.17, “Residential Office (OR) District” of the Land Development Regulations of the City of Delray Beach, Florida is hereby amended as follows:

Sec. 4.4.17. Residential Office (RO) District.

(A) - (B) (These subsections shall remain in full force and effect as adopted).

(C) ***Accessory uses and structures permitted.*** The following uses and structures are allowed when a part of, or accessory to, the principal use:

(1) Parking lots.

(2) Refuse and service areas.

(3) Uses and structures normally associated with residences, such as: bird aviaries, ~~boat docks~~, dog houses and dog runs, detached garages, greenhouses, ~~guest cottages~~, playhouses, pool houses ~~and covers~~, ~~pump houses~~, slat houses, storage sheds, tennis courts, workshops, and swimming pools, ~~and home-based businesses~~, subject to Section 4.3.3(QQ).

(4) Family day care home ~~pursuant~~, subject to Section 4.3.3(T).

(5) Home occupations, subject to Section 4.3.3(K).

(6) Boat docks, subject to Article 7.9. The rental or lease of a boat dock is permitted when the dock is assigned to, or on the same lot as, each residential use on a one-to-one basis.

(7) Guest cottages, subject to Section 4.3.3(Q).

(D) (This subsection shall remain in full force and effect as adopted).

(E) Review and approval process.

- (1) All residential uses allowed as a principal use or accessory use thereto shall be allowed upon application to and approval by the Chief Building Official for structures which require a building permit and which otherwise comply with applicable use restrictions, unless it is a property located within a Historic District or Individually Designated Sites, as listed on the Local Register of Historic Places in Section 4.5.1(I).
- (2) New mixed use or commercial development, or modifications of existing development, ~~with the exception of single family residential,~~ must be approved by the Site Plan Review and Appearance Board pursuant to Section 2.4.5, unless it is a property located within a Historic District or Individually Designated Sites, as listed on the Local Register of Historic Places in Section 4.5.1(I).
- (3) Conditional uses must be approved pursuant to the provisions of Section 2.4.5(E).
- (4) The creation of a new lot for the purpose of building a single family residence or establishing a principal use on its own parcel required platting pursuant to Section 2.4.5(J) or (K), as applicable.
- (5) Any development of properties located within a Historic District or Individually Designated Sites as listed on the Local Register of Historic Places in Section 4.5.1(I) is subject to review by the Historic Preservation Board, pursuant to Section 2.2.6(D).

(F) - (H) (These subsections shall remain in full force and effect as adopted).

Section 9. Appendix A, “Definitions,” of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended:

ACCESSORY BUILDING STRUCTURE, OR USE. A building, structure, or use on the same lot with, and of a nature customarily incidental and subordinate to, the principal building, structure, or use.

POOL HOUSE. A permanent, detached accessory structure located in close proximity to a swimming pool, not intended to function as a dwelling unit or guest quarter, providing a bathroom, changing area, or storage.

Section 10. All ordinances or parts of ordinances in conflict herewith be, and the same are, hereby repealed.

Section 11. Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part thereof other than the part declared to be invalid.

Section 12. Specific authority and direction is hereby given to the City Clerk to codify this Ordinance.

Section 13. This ordinance shall become effective immediately upon its passage on second and final reading.

PASSED AND ADOPTED in regular session on second and final reading on this the _____ day of _____, 2022.

ATTEST:

Katerri Johnson, City Clerk

Shelly Petrolia, Mayor

First Reading _____

Second Reading _____

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney