

ORDINANCE NO. 30-21

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, ADOPTING A COMPREHENSIVE PLAN AMENDMENT PURSUANT TO THE PROVISIONS OF THE "COMMUNITY PLANNING ACT", FLORIDA STATUTES SECTION 163.3177 AND SECTION 163.3184, AS MORE PARTICULARLY DESCRIBED IN EXHIBIT "A" ENTITLED "ALWAYS DELRAY COMPREHENSIVE PLAN AMENDMENT, ORDINANCE NO. 30-21" AND INCORPORATED HEREIN BY REFERENCE, TO BRING THE ADOPTED COMPREHENSIVE PLAN INTO COMPLIANCE WITH LEGISLATIVE CHANGES TO F.S. 163.3177(6)(i)1 BY ADOPTING A PROPERTY RIGHTS ELEMENT; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AUTHORITY TO CODIFY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Delray Beach exercised the authority granted pursuant to the provisions of Florida Statutes Sections 163.3161 through 163.3248, inclusive, known as the "Community Planning Act"; and

WHEREAS, Section 163.3167, Florida Statutes, requires the City of Delray Beach to maintain a comprehensive plan to guide its future development and growth; and

WHEREAS, via Ordinance No. 82-89, the City Commission adopted the document entitled "Comprehensive Plan - Delray Beach, Florida"; and

WHEREAS, via Ordinance No. 19-19, the City Commission adopted an update to the Comprehensive Plan entitled "Always Delray"; and

WHEREAS, Section 163.3177(6)(i)1., Florida Statutes, requires the City of Delray Beach comprehensive plan to include a property rights element; and

WHEREAS, the City of Delray Beach respects judicially acknowledged and constitutionally protected private property rights; and

WHEREAS, the City of Delray Beach respects the rights of all people to participate in land use planning processes; and

WHEREAS, Ordinance No. 30-21 amends the comprehensive plan by adding a property rights element provided as Exhibit "A" – "Always Delray Comprehensive Plan Amendment, Ordinance No. 30-21";

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 August 16, 2021, and voted 6 to 0 to recommend approval of these proposed text amendments, finding the request and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations.

WHEREAS, the City Commission of the City of Delray Beach finds that Ordinance No. 30-21 is consistent with the Comprehensive Plan and meets the criteria set forth the Land Development Regulations; and,

WHEREAS, following due public notice, the first of two required public hearings on “Always Delray Comprehensive Plan Amendment, Ordinance No. 30-21” was held by the City Commission on September 13, 2021, at which time the Commission authorized said document to be transmitted to the Florida Department of Economic Opportunity (DEO), sitting as the State Land Planning Agency, for required review; and

WHEREAS, following due public notice, the second of two required public hearings on “Always Delray Comprehensive Plan Amendment, Ordinance No. 30-21” was heard by the City Commission on < date >, in accordance with statutory requirements.

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. The City Commission of the City of Delray Beach, Florida, hereby declares its intent to exercise the authority granted pursuant to the provisions of Florida Statutes Sections 163.3161 through 163.3248, inclusive, known as the "Community Planning Act."

Section 3. In implementation of its declared intent as set forth in Section 1 of this ordinance, there is hereby adopted the document entitled “Always Delray Comprehensive Plan Amendment, Ordinance No. 30-21,” which is attached hereto as Exhibit “A” and incorporated herein by reference.

Section 4. The document entitled “Always Delray” is hereby amended pursuant to the document entitled “Always Delray Amendment, Ordinance No. 30-21.”

Section 5. All ordinances or parts thereof or parts of the Code conflicting or inconsistent with the provisions of this ordinance are hereby repealed.

Section 6. If any word, clause, sentence, paragraph, section or part thereof contained in this Ordinance is declared to be unconstitutional, unenforceable, void or inoperative by a court of competent jurisdiction, such declaration shall not affect the validity of the remainder of this ordinance.

Section 7. This ordinance shall become effective as follows: thirty-one (31) days after adoption, unless the Comprehensive Plan amendment is timely challenged. If timely challenged, the effective date of this Ordinance shall be the date a final order is issued by the State Land Planning or the Administration Commission, finding the adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the state land planning agency.

PASSED AND ADOPTED in regular session on second and final reading on this ____ day of _____, 2021.

ATTEST:

Katerri Johnson, City Clerk

Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney

First Reading _____

Second Reading _____