

ORDINANCE NO. 06-25

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 CHAPTER 4, "ZONING REGULATIONS," ARTICLE 4.3, "DISTRICT REGULATIONS, GENERAL PROVISIONS," SECTION 4.3.3, "SPECIAL REQUIREMENTS FOR SPECIFIC USES," SUBSECTION (AA), "ADULT ENTERTAINMENT ESTABLISHMENTS," TO PROHIBIT ADULT ENTERTAINMENT ESTABLISHMENTS SOUTH OF ATLANTIC AVENUE; PROVIDING A CONFLICTS CLAUSE, 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, adult entertainment establishments are allowed in the Mixed Industrial and Commercial (MIC) District west of the CSX railroad; and

WHEREAS, MIC zoning is limited to properties with a Commerce (CMR) or Industrial (I) land use designation; and

WHEREAS, the City is amending the Comprehensive Plan via Ordinance No. 05-25 to allow CMR land use designations along Congress Avenue Corridor south of West Atlantic Avenue; and

WHEREAS, with the expansion of the permissible locations for MIC zoning, it is in the best interest of the City to adopt regulations that continue to limit the permissible locations of adult entertainment establishments consistent with existing geographic limitations, due to the residential character of the land use and zoning south of Atlantic Avenue along the Congress Avenue Corridor; and

WHEREAS, pursuant to Florida Statutes 163.3174(4), the Planning and Zoning Board for the City of Delray Beach, sitting as Local Planning Agency, considered this item at a public hearing on February 24, 2025, and voted 6 to 0 to recommend that the proposed text amendments be approved, finding that 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 has considered Ordinance No. 06-25 and the respective findings as set forth in the Comprehensive Plan and Land Development Regulations.

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

Section 3. Chapter 4, “Zoning Regulations,” Article 4.3, “District Regulations, General Provisions,” Section 4.3.3, “Special Requirements for Specific Uses,” Subsection (AA), “Adult Entertainment Establishments,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

(AA) ***Adult entertainment establishments.*** In addition to the requirements of the underlying zoning district, other applicable general regulations, County licensing requirements, parking regulations and Section 113.20 of the Code of Ordinances of the City of Delray Beach, the following requirements shall apply to adult entertainment establishments:

- (1) No adult entertainment establishment shall be located on properties with frontage on an arterial road, located south of Atlantic Avenue, or located east of the CSX railroad track.
- (2) No adult entertainment establishment shall be located closer than 1,000 feet from any house of worship, school, residential zoning district, community facilities zoning district (CF, OS, OSR, CD) where the use is or is to be regularly frequented by the general public (i.e. community center, parks, courthouse, child care facilities, offices, etc.) measured from lot line to lot line boundary along a straight airline route, except when the property containing the adult entertainment establishment is separated from the above by the I-95 right-of-way.
- (3) No adult entertainment establishment shall be located within 200 feet of an alcoholic beverage establishment, measured from lot line to lot line boundary along a straight airline route except if the establishment permitting nudity or partial nudity is separated from an alcoholic beverage establishment by a Railroad Corridor or an Arterial Roadway as the width of the Railroad Corridor and/or Arterial Roadway shall be deemed a sufficient separation.
- (4) Signage. Only one sign per adult entertainment establishment is permitted, and such sign shall not extend above 12 feet above ground level or have an area of greater than 36 square feet. No neon material shall be permitted on the sign. All other restrictions of the sign code shall apply herewith.
- (5) No adult entertainment establishment shall be located within an historic district, on an historic site, or on properties listed on the Local or National Register of Historic Places, unless the historic district, site or property was previously used for an adult entertainment type use.
- (6) The minimum floor area per room or partitioned area within an adult entertainment establishment must be 2,000 square feet exclusive of kitchen, restrooms, storage areas, and other non-public/customer area of the establishment.
- (7) Performers/entertainers or employees in the state of nudity or partial nudity shall not approach within four feet of patrons, customers, or other employees or other performers/entertainers, and must perform/entertain from a stage encompassing an area of at least 100 square feet.

Section 4. All ordinances or parts of ordinances in conflict herewith be, and the same are, hereby repealed.

Section 5. 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 6. Specific authority is hereby given to the City Clerk to codify this Ordinance.

Section 7. 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 ____ day of _____, 2025.

ATTEST:

Alexis Givings, City Clerk

Thomas F. Carney, Jr., Mayor

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney

First Reading _____

Second Reading _____