

**ARTICLE 2.1       REVIEWING OFFICIALS AND AUTHORITIES**

**Section 2.1.1       Administrative Officials.**

**(A) *Terms:***

- (1)       *Director* means the Development Services Director or designee. The Director is responsible for the overall operations and management of the Historic Preservation, Current Planning, Long Range Planning, and Building Divisions.
- (2)       *Chief Building Official* means this specific position, or his or her designee.
- (3)       *City Engineer* means a licensed engineer employed by the City, as assigned by the Director of Public Works.

**(B) *Director:*** Responsibilities of the Director include, but are not limited to, the following:

- (1)       Administering the Comprehensive Plan and ensuring its compliance with state laws.
- (2)       Administering the Land Development Regulations and interpreting all Land Development Regulations not specifically delegated to the City Engineer or Chief Building Official.
- (3)       Certifying approved site plans and certificates of appropriateness.
- (4)       Approving Level 1 and Level 2 site plans and Zoning Certificates of Use.
- (5)       Granting administrative relief as authorized in the LDR.
- (6)       Maintaining the Official Zoning Map and the Land Use Map.
- (7)       Designation as the City Preservation Officer
- (8)       Ex-Officio member to Planning and Zoning Board, Historic Preservation Board, and the Site Plan Review and Appearance Board.
- (9)       Responsibilities assigned as set forth throughout the Land Development Regulations.

**(C) *Chief Building Official:*** Responsibilities of the Chief Building Official include, but are not limited to, the following:

- (1)       Interpretation of Chapter 7 (Building) and Chapter 10 (Flood Damage Control Districts and Coastal Construction).

- (2) Administering and enforcing the Building Code as adopted in Chapter 7, including approval of building permits and certificates of occupancy.
  - (3) Granting administrative relief as authorized in the LDR.
- (D) **City Engineer:** Responsibilities of the City Engineer include, but are not limited to, the following:
- (1) Interpretation of Chapter 6 (Infrastructure and Public Improvements).
  - (2) Approval of paving, grading and drainage plans; traffic control signage and pavement markings plans; water and sewer plans.
  - (3) Granting administrative relief as authorized in the LDR.
  - (4) Responsibilities assigned as set forth throughout the LDR.

#### **Section 2.1.2 Review Authorities.**

This Section establishes the review authorities that are primarily responsible for the administrative review for technical compliance with these Land Development Regulations.

(A) **Technical Advisory Committee (TAC).** TAC is directed by Development Services and provides administrative review for technical compliance with the Land Development Regulations, City policies, and all other applicable ordinances. TAC consists of two sub-groups: 1) development application review and 2) special event permits.

- (1) **Membership.** TAC members designated for development application review shall be comprised of representatives from the following disciplines:
  - (a) Building
  - (b) Engineering
  - (c) Fire
  - (d) Landscape
  - (e) Current, Long Range, and Historic Preservation Planning Divisions
  - (f) Police
  - (g) Utilities
  - (h) Neighborhood and Community Services, as applicable

- (i) Parks and Recreation, as applicable
- (j) External Agencies, as applicable

(2) ***Meetings.***

- (a) The TAC development application group shall meet weekly, or as called for by the Director, to review all submissions for technical compliance prior to consideration by the official or board with decision-making authority.
- (b) The special event permit review group shall meet bi-weekly, as needed, to review all requests based on City event policies and technical compliance prior to consideration by the Development Services Management Group (DSMG).

(B) ***Development Services Management Group (DSMG).*** The DSMG provides an administrative body to guide the implementation of the Land Development Regulations and local ordinances, to recommend amendments and policy changes, and to consider and grant relief to technical requirements, as authorized by the Land Development Regulations.

(1) ***Membership.*** DSMG shall be comprised of the following officials and City Departments:

- (a) Director
- (b) Chief Building Official
- (c) City Engineer
- (d) Fire Chief, or designee
- (e) Director of Neighborhood and Community Services
- (f) Director of Public Works
- (g) Director of Utilities
- (h) Representatives of other departments as deemed appropriate by the City Manager.

(2) ***Meetings.*** The DSMG shall meet monthly, or as called for by the Director.

(3) ***Duties, powers, and responsibilities.***

- (a) ***Recommendations.*** The DSMG has the authority to review and recommend changes to local ordinances and policies.

- (b) **Actions.** The DSMG has the authority to take action on the following items as authorized in Chapter 2 and pursuant to the procedures and standards of the LDR:
1. Administrative relief limited to the following:
    - a. Modifications to the streetscape standards in CBD.
    - b. Deviations up to five percent, up to a maximum of one-foot, from an already approved waiver.
    - c. Adjustments to setback requirements for detached single-family and duplex structures resulting from right-of-way dedications, equal to the amount of the dedication, but no more than five feet.
  2. Appeal of an administrative interpretation of regulations that are not related to use associated with a project in the TAC review process, where the LDR does not identify a process for such a request.
  3. Review and approve special event applications.

### **Section 2.1.3. Boards with Responsibilities for Land Development**

This Section establishes the boards that have responsibilities for the implementation and application of these Land Development Regulations. General provisions that govern each board along with specific provisions for individual boards and establishment of powers, duties, and responsibilities are set forth in following sections. Additional provisions are also found in Chapter 32 of the Code of Ordinances. All actions of each Board shall be reported to the City Commission, with the exception of the Board of Adjustment. Actions of the Boards are not final until the report has been approved by the City Commission.

#### **(A) *General provisions.***

The following general provisions apply to all Boards established under this Article. Additional provisions pertaining to any of the following matters may be found within the Sections pertaining to an individual Board and within Sections 32.06 to 32.10 of the Code of Ordinances.

#### **(B) *Appointment and term, officers.***

- (1) Members of a Board shall be appointed by the City Commission. A term shall consist of two years or the completion of an unexpired term and the subsequent two years.
  - (a) In the case of reorganization or reconstitution of a Board, three members shall be appointed for an initial term of one year.
  - (b) A member shall not serve more than two successive terms on a Board.

- (c) A member appointed to fill an unexpired term shall not automatically proceed to the next full term but must be reappointed to the Board.
  - (2) **Board Positions.** A Board shall elect from among its members a Chairperson, Vice-Chairperson, and second Vice-Chairperson. Elections shall be held at a Board's regular monthly meeting in September of each year.
    - (a) The Chairperson shall call all meetings of a Board to order and shall conduct business pursuant to Roberts Rules of Order, newly revised.
    - (b) In the absence of the Chairperson, the Vice-Chairperson shall call and conduct meetings.
    - (c) In the absence of both, the second Vice-Chairperson shall call and conduct meetings.
    - (d) In the event of a vacancy in an office, a Board shall hold a special election for any such vacancy after a full membership has been appointed by the Commission.
    - (e) An officer may succeed himself.
  - (3) An employee of the City shall be designated, by the City Manager, as an "Ex-Officio" member of a Board and shall sign documents as the Secretary of a Board.
- (C) **Meetings.**
- (1) Each Board shall meet at least one time each month.
    - (a) In addition to any required meetings set forth specifically for each Board, additional business meetings and work sessions may be held as desired.
    - (b) All meetings shall be noticed pursuant to the requirements of Chapter 2 and shall be open to the public.
    - (c) Required regular meetings shall be canceled if there are no applications deemed ready for Board consideration.
  - (2) The regularly scheduled business meetings and special meetings of each Board shall be held in the evening hours (after 5:00 p.m.). This requirement shall not apply to work sessions.
- (D) **Board Support**
- (1) The Director shall assign appropriate staff to assist each board in the performance of its duties.

- (2) An employee of the City shall be designated, by the Director, as an "ex-officio" member of a board and shall sign documents as the Board Secretary.
- (3) A City Attorney shall attend all meetings, acting in an advisory capacity and participating fully in board discussions, but having no right to vote.
- (E) **Conduct.** The general conduct of a public hearing shall be in accordance with the rules adopted by the applicable board, or if none has been adopted, by the Rules of the City Commission.
- (F) **Compensation and reimbursements.** All members shall serve without compensation. Reimbursement of expenditures incurred by members in the performance of his or her duties shall be provided pursuant to policies of the City Commission. The cost of general operating needs shall be a part of the budget of an operating department or division as assigned by the City Manager.
- (G) **Appealable Report of Board Actions.** All actions of each Board shall be reported to the City Commission. Reported Board actions are not final until the report has been approved by the City Commission. The City Commission may request to appeal a Board's action. Appeals are processed pursuant to the requirements of Chapter 2. The reporting of actions to the City Commission does not apply to the Board of Adjustment.

**Sec. 2.1.4. Notice requirements.**

The City Commission, the Planning and Zoning Board, and other Boards involved with the implementation of these Land Development Regulations shall conduct meetings and provide public notice of tentative actions. All costs incurred by the City for advertising, providing notice and recording of any documents shall be paid by the Applicant.

- (A) **Public meeting requirements.** The meetings of all Boards listed in Chapter 2 shall be open to the public.
  - (1) **Notice and agenda required.** An agenda shall be established for every meeting of each Board.
    - (a) Board agendas shall be posted in the main lobby of City Hall at least five business days prior to a regular meeting.
    - (b) Board agendas for a special meeting shall be posted at least 24 hours prior.
    - (c) A Board shall only consider items that have been duly placed upon a posted agenda with the exception of items deemed as an emergency and that are added to an agenda by a majority of the Board members present.

- (2) **Public information.** Any background material or documentation that is provided to Board Members shall be available for public review at City Hall at least 24 hours prior to the start of the meeting where the item will be considered.
- (3) **Discussion and disclosure.** Board Members shall conduct themselves in accordance with the "Sunshine Laws" of the State of Florida with respect to discussion of items before the Board and to disclosure of conflicts of interest.

**Sec. 2.1.5. The Planning and Zoning Board.**

- (A) **Purpose.** The Planning and Zoning Board for the City of Delray Beach has been created under the authority of Section 3.14 of the City Charter and is designated as the Local Planning Agency under the Florida Community Planning Act, Section 166.3164 et seq., Florida Statutes, for the City of Delray Beach.
- (B) **Composition and qualifications.** The Planning and Zoning Board shall consist of seven members.
  - (1) At least five seats on the Board must be filled with either an architect, landscape architect, realtor/real estate broker, civil engineer, developer, general contractor, land planner or land use attorney.
  - (2) The remaining two seats shall be at large.
  - (3) The appointing body shall endeavor to appoint as many of the required disciplines as possible to the Board.
- (C) **Quorum.** Four members of the Board shall constitute a quorum.
- (D) **Actions.**
  - (1) A majority vote of a quorum is required to pass any motion, with the exception of variances.
  - (2) A motion to approve a variance requires at least five votes to pass the motion.
  - (3) If a tie vote results from a motion, then the matter considered will be deemed to have been denied.
- (E) **Duties, powers, and responsibilities.**
  - (1) To advise and recommend on the preparation and adoption of a comprehensive plan for the city pursuant the Charter, as amended, and by the Florida State Statutes (163 and successor legislation).

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- (2) To determine whether or not specific proposed developments conform to the Goals, Objectives, and Policies of the comprehensive plan as to growth and improvement.
- (3) To conduct an annual infrastructure hearing to obtain public input prior to the annual review of proposed capital budget in accordance with Policy PFE 1.1.2 of the Comprehensive Plan.
- (4) ***Board Recommendations.*** The Board shall review and make recommendations to the City Commission with respect to the following items, pursuant to the procedures and standards of the Land Development Regulations (LDR):
  - (a) Amendments to the Comprehensive Plan and the Land Use Map.
  - (b) Rezoning of land.
  - (c) Amendments to any portion of the LDR.
  - (d) Annexation of territory to the City.
  - (e) Establishment of a Conditional Use.
  - (g) Abandonment of rights-of-way or public easements, except single purpose easements.
  - (h) Establishment or modification of the names of streets, alleys, or other pathways providing access for vehicles, bicycles, or pedestrians, whether public or private, in accordance with the adopted City of Delray Beach Addressing and Street Naming Manual.
  - (i) Certification of a Major Subdivision Plat.
  - (j) Level 4 Site Plan Applications, including any density or height increases, and associated relief such as waivers, variances, etc.
  - (k) Relief to the requirements of the CBD prior to the consideration of an associated site plan application.
- (5) ***Board Actions.*** The Board hereby has the authority to take action on the following items pursuant to the procedures and standards of the LDR:
  - (a) Level 3 Site Plan Applications, including any relief, as applicable.
  - (b) Level 2 Site Plan Applications, only if a variance is associated with the request.
  - (c) Master Development Plans as required in certain "planned" zoning districts.



- (d) Determinations of similarity of use.
- (e) Minor modification of a prior conditional use approval.
- (f) Relief from the number of parking spaces required for specific uses pursuant to Section 4.6.9(F)(1).
- (g) Variances associated with a Level 2 or Level 3 Site Plan Applications, limited to the following:
  - 1. Base district development standards, Section 4.3.4, unless otherwise stated.
  - 2. Supplemental District Regulations, Article 4.6, except where said authority is expressly prohibited, granted to others, or relief is available through another process.
  - 3. Flood Damage Control Districts and Coastal Construction, Chapter 10.
- (i) Appeals from determinations by the Chief Building Official for the Standards of Approval in Article 7.9, Docks, Dolphins, Finger Piers, and Boat Lifts, associated with commercial or multi-family residential development.
- (j) Any other regulations or requirements elsewhere noted that specify relief is available by the body acting upon the development application.
- (6) To provide "good offices" and assistance to other governmental boards, commissions, and committees in the fulfillment of goals, objectives, and policies of the adopted Comprehensive Plan.
- (E) ***Final Actions.*** All final actions of the Planning and Zoning Board, except variances, may be appealed to the City Commission, pursuant to the procedures of Chapter 2. Any person or persons, or any Board, Taxpayer, Department, or Bureau of the City may aggrieve an action on a variance request taken by the Planning and Zoning Board and may seek review of such action in the Circuit Court of Palm Beach County.

**Sec. 2.1.6. The Site Plan Review and Appearance Board.**

- (A) ***Purpose.*** The purpose of SPRAB is to promote certain functional and aesthetic goals, objectives and policies as set forth in the adopted Comprehensive Plan.
- (B) ***Composition.*** The SPRAB shall consist of seven members.
  - (1) At least five seats on the Board must be filled with either an architect, landscape architect, land use attorney, realtor/real estate broker, civil engineer, general contractor, land planner or interior designer.

- (2) The remaining two seats shall be at large.
- (3) The appointing body shall endeavor to appoint as many of the required disciplines as possible to the Board.
- (C) **Quorum.** Four members of the Board shall constitute a quorum.
- (D) **Actions.**
  - (1) A majority vote of a quorum is required to pass any motion.
  - (2) If a tie vote results from a motion, then the matter considered will be deemed to have been denied.
- (E) **Duties, powers, and responsibilities.**
  - (1) **Board Action.** The SPRAB has the authority to take action on the following items pursuant to the procedures and standards of the LDR:
    - (a) Level 1 or Level 2 Site Plan Applications when associated with the following requests for relief:
      - 1. Waivers that do not require City Commission action.
      - 2. Reduction in the number of parking spaces required for specific uses, pursuant to Section 4.6.9(F)(1).
      - 3. Waivers to Section 4.6.16, Landscape Regulations.
    - (b) Master Sign Programs and any sign that does not meet the minimum requirements of Section 4.6.7, Signs, and requires relief.
    - (c) Appeal of an administrative interpretation associated with the following:
      - 1. Section 4.6.7, Signs
      - 2. Section 4.6.16, Landscape Regulations
      - 3. Level 1 Site Plan Applications
      - 4. Level 2 Site Plan Applications
    - (d) Appeals to any "Design Guidelines" in Section II of the Beach Property Owners Design Manual for the North Beach and Seagate Neighborhoods as set forth in Section 4.5.13.

- (2) Provide "good offices" and assistance to other governmental boards, commissions, and committees in the fulfillment of goals, objectives, and policies of the Comprehensive Plan.

(F) ***Final Actions.*** All decisions of the SPRAB may be appealed to the City Commission, pursuant to the procedures of Chapter 2.

**Sec. 2.1.7. The Board of Adjustment.**

(A) ***Purpose.*** The Board of Adjustment for the City of Delray Beach has been created under the authority of Section 3.14 of the City Charter.

(B) ***Composition.*** The Board of Adjustment shall consist of seven regular members.

- (1) At least four seats on the Board must be filled with either a land use attorney, architect, landscape architect, realtor/real estate broker, civil engineer, general contractor, land planner, building inspector, fire safety professional, or other design professional who is familiar with the Florida Building Code.
- (2) The remaining three seats may be at large.
- (3) The appointing body shall endeavor to appoint as many disciplines as possible to the Board. If there is a lack of applicants to fill the seats reserved for professionals, at large members may be considered.

(C) ***Quorum.*** Five members of the Board shall constitute a quorum.

(D) ***Actions.***

- (1) A motion to approve a variance requires at least five votes to pass the motion.
- (2) A motion to approve a request to reverse a decision of the Chief Building Official requires at least five votes to pass.
- (3) If a tie vote results from a motion, then the matter considered will be deemed to have been denied.

(E) ***Duties, powers, and responsibilities.***

- (1) ***Board Action.*** The Board of Adjustment has the authority to take action on the following items pursuant to the procedures and standards of the LDR:
  - (a) Hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Chief Building Official.

1. Such appeals do not include interpretations of use matters and other items specifically preempted or granted to others pursuant to the LDR.
  2. So long as its actions are in conformity with the LDR, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, or decision, or determination under appeal, and to that end shall have the same powers of the Chief Building Official.
- (b) The Board has the authority to take action on duly filed appeals of an interpretation, administrative decision, or enforcement action by the Chief Building Official related to the following regulations:
1. Building Code, Article 7.1, except Sections 7.1.5 through 7.1.7;
  2. Electrical Code, Article 7.2;
  3. Gas Code, Article 7.3;
  4. Housing Code, Article 7.4;
  5. Mechanical Code, Article 7.5;
  6. Plumbing Code, Article 7.6;
  7. Unsafe Buildings or Structures, Article 7.8;
  8. Moving of Building, Article 7.10.
- (c) The Board hereby has the authority to grant variances and-hear appeals from the following:
1. Base district development standards, Section 4.3.4, for single-family or duplex uses, unless otherwise stated.
  2. Flood Damage Control Districts and Coastal Construction, Chapter 10, for single-family or duplex uses.
  3. Supplemental District Regulations, Article 4.6, for single-family or duplex uses, unless otherwise stated, except where said authority is expressly prohibited, granted to others, or relief is available through another process.
  4. Docks, Dolphins, Finger Piers, and Boat Lifts, Article 7.9, for single-family or duplex structures for a modification of standards for approval.

5. Fire Prevention Codes, Chapter 96 of The City Code of Ordinances, per Section 96.06.
  6. Section I, "District Regulations and Incentives," of the Beach Property Owners Design Manual for the North Beach and Seagate Neighborhoods as set forth in Section 4.5.13.
- (2) To provide "good offices" and assistance to other governmental boards, commissions, and committees in the fulfillment of goals, objectives, and policies of the Comprehensive Plan.
- (F) ***Final Actions.*** All actions-of the Board of Adjustment are final. Any person or persons, or any Board, Taxpayer, Department, or Bureau of the City may aggrieve any action of the Board of Adjustment and may seek review of such action in the Circuit Court of Palm Beach County.

**Sec. 2.1.8. Public Art Advisory Board.**

- (A) ***Purpose.*** The Public Art Advisory Board was established via Ordinance No. 77-04 for the purpose of advising and making recommendations to the City Commission with respect to public art policy and related issues including, but not limited to, the selection, construction, placement and/or funding of public art in/on City right-of-way, City owned property or private property where an agreement. acceptable to the City, has been executed regarding the art and the art is clearly visible by the public. Apply the guidelines and criteria in Section 8.5 for making recommendations or decisions on the installation of public art, whether as part of a public or private project.
- (B) ***Composition and qualifications.*** The Public Art Advisory Board shall consist of seven members.
- (1) At least three seats on the Board must be filled with either an artist, architect, landscape architect or engineer.
  - (2) The remaining four seats shall be at large and consist of lay persons of knowledge, experience and judgment who have an interest in public art shall make up the balance of the board.
  - (3) The appointing body shall endeavor to appoint as many of the required disciplines as possible to the Board.
- (C) ***Quorum.*** Four members of the Board shall constitute a quorum.
- (D) ***Actions.***
- (1) A majority vote of a quorum is required to pass any motion.

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- (2) If a tie vote results from a motion, then the matter considered will be deemed to have been denied.
- (E) ***Duties, powers, and responsibilities.*** The following duties, powers, and responsibilities shall be carried out by the Public Art Advisory Board:
  - (1) Apply the guidelines and criteria in Section 8.5 for making recommendations or decisions on the installation of public art, whether as part of a public or private project.
  - (2) ***Board Recommendations, City Commission.*** The Board shall review and make recommendations to the City Commission, as follows:
    - (a) Constructing, placing, or installing public art with CIP projects above \$200,000.00. Review of CIP projects under \$200,000.00 is at the discretion of the Board.
    - (b) Funding or placing of public art on private property, where such art is clearly visible by the public and the City has obtained an agreement for the funding or placement of such art with the property owner.
    - (c) Funding or placing of public art in the public right-of-way, on City owned property, or on structures that are located in the public right-of-way.
    - (d) Installations of all public art throughout the city.
  - (3) ***Board Recommendations, Historic Preservation Board.*** The Board shall review and make recommendations to the Historic Preservation Board regarding the installation of murals on property located within a historic district or on any individually designated site listed on the Local Register of Historic Places.
  - (4) ***Board Advisory Opinion.*** Render an advisory opinion to City Commission regarding the following:
    - (a) The suitability of the construction project as a location for works of art;
    - (b) The nature of the works of art which are most appropriate for the construction project;
    - (c) The best method for securing the recommended works of art.
  - (5) ***Board Actions.*** The Board shall take action on all requests for the installation of murals on property not located within a historic district or on any individually designated site listed on the Local Register of Historic Places.

**Sec. 2.1.9. The Historic Preservation Board.**

- (A) ***Purpose.*** The purpose of the Historic Preservation Board is to foster and promote the recognition, protection, enhancement and use of historic resources in the City of Delray Beach. The Board, through the City's Historic Preservation Division of Development Services, shall also promote certain functional and aesthetic goals, objectives and policies as set forth in the City's Comprehensive Plan, particularly the Historic Preservation Element, as they relate to the preservation of Delray Beach's historic resources. The Historic Preservation Board reviews all matters pertaining to Certificate of Appropriateness requests for property, sites, and structures located within a Historic District or for Individually Designated Sites as listed on the Local Register of Historic Places in Section 4.5.1(I).
- (B) ***Composition and qualifications.*** The Historic Preservation Board shall consist of seven members.
- (1) At least five seats on the Board must be filled with either an architect, landscape architect, realtor/real estate broker, civil engineer, general contractor, architectural historian, preservationist, land planner or interior designer.
  - (2) The remaining two seats shall be at large. Lay persons with knowledge, experience and judgment who have an interest in historic preservation shall make up the balance of the Board.
  - (3) The appointing body shall endeavor to appoint as many of the required disciplines as possible to the Board to ensure compliance with the requirements of the City's designation as a Certified Local Government by the State of Florida.
  - (4) Preference should be given to professional and lay persons who own property within historic districts or whose property is individually listed in the Local Register of Historic Places.
- (C) ***Quorum.*** Four members of the Board shall constitute a quorum.
- (D) ***Actions.***
- (1) A majority vote of a quorum is required to pass any motion.
  - (2) If a tie vote results from a motion, then the matter considered will be deemed to have been denied.
- (D) ***Duties, powers, and responsibilities.*** The following duties, powers, and responsibilities shall be carried out by the Historic Preservation Board:
- (1) Act as a regulatory body on all development applications and Certificates of Appropriateness for properties located within a Historic District or for Individually Designated Sites as listed on the Local Register of Historic Places in Section 4.5.1(I).

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- (2) Provide recommendations to the Chief Building Official concerning building code amendments, as they apply to Historic structures and districts
- (3) Develop, establish, and regulate guidelines concerning contemporaneous architectural styles, colors, building materials, and so forth for all properties which are Individually Designated and/or located within historic districts. Such guidelines will be subject to review by the Planning and Zoning Board and will be subject to approval by the Commission.
- (4) Develop, maintain, and update survey reports of archaeological sites, properties, buildings, structures, and districts of special historic, aesthetic, architectural, cultural, or social value or interest. The Board will endeavor to improve, expand, and make more accurate the survey report as additional documents, information, oral histories, and other such materials may become available, and it will periodically reevaluate all survey reports. The Board will work with the Delray Beach Historical Society, the State Bureau of Historic Preservation, and other appropriate public and nonprofit organizations in maintaining the survey reports.
- (5) Nominate buildings, sites, and districts for historic designation on the Local Register of Historic Places.
- (6) Nominate and participate in the listing of buildings, sites, and districts on the National Register of Historic Places.
- (7) Increase public awareness of the value of historic preservation by developing, conducting, and participating in public education programs.
- (8) Contact public and private organizations, businesses, and individuals and endeavor to arrange agreements to help insure the conservation and preservation of historically and aesthetically significant buildings and structures for which demolition is proposed.
- (9) In the name of the City, and only with the express approval of the City Commission, seek, apply for, solicit, receive, and expend any federal, state, or private grant, gift, or bequest of any funding, property, or interest in property to further the purposes of historic and heritage conservation and preservation.
- (10) Advise the City Commission on all matters related to the use, administration, and maintenance of city-owned designated historic sites.
- (11) Execute any other functions relevant to the duties, powers and responsibilities of the Board regarding historic preservation planning programs and policies which may be approved by ordinance or resolution of the City Commission.
- (12) **Board Actions.** The Board hereby has the authority to take action on the following items associated with property, sites, and structures located within a Historic District or



for Individually Designated Sites as listed on the Local Register of Historic Places in Section 4.5.1(I), pursuant to the procedures and standards of the LDR:

- (a) Certificate of Appropriateness Applications.
  - (b) Level 1, 2, and 3 Site Plan Applications.
  - (c) Master Development Plans.
  - (d) Variances and appeals from the following:
    - 1. Base district development standards, Section 4.3.4, unless otherwise stated.
    - 2. Flood Damage Control Districts and Coastal Construction, Chapter 10.
    - 3. Supplemental District Regulations, Article 4.6, except where said authority is expressly prohibited, granted to others, or relief is available through another process.
    - 4. Fire Prevention Codes, Chapter 96 of The City Code of Ordinances, per Section 96.06.
    - 5. Docks, Dolphins, Finger Piers, and Boat Lifts, Article 7.9, for a modification of standards for approval.
  - (e) Variances from Section 4.6.7, Signs, for those nonconforming signs that existed at the time of enactment of Ordinance 51-75, adopted on December 8, 1975.
  - (f) Relief to Section 4.6.16, Landscape Regulations, through the waiver process.
  - (g) Relief from the number of parking spaces required for specific uses pursuant to Section 4.6.9(F)(1).
  - (h) Waivers within the CBD.
  - (i) Any other regulations or requirements elsewhere noted that specify relief is available by the body acting upon the development application.
- (13) ***Board Recommendations, Planning and Zoning Board.*** The Board shall review and make recommendations to the Planning and Zoning Board with respect to the following items, pursuant to the procedures and standards of the Land Development Regulations (LDR):
- (a) Amendments to the LDR, as they apply to Historic structures and districts.

- (b) Conditional Use requests, and the accompanying Level 4 Site Plan application, associated with historic structures and/or districts.
- (14) ***Board Recommendations, City Commission.*** The Board shall review and make recommendations to the City Commission with respect to the following items, pursuant to the procedures and standards of the Land Development Regulations (LDR):
- (a) Level 4 Site Plan applications not associated with a Conditional Use.
  - (b) Amendments to the Historic Preservation Element of the adopted Comprehensive Plan, and amendments to other Elements which may have an impact on historic preservation efforts in the City.
  - (c) Facade easements, the imposition of other restrictions, and the negotiation of contracts for the purposes of historic preservation.
  - (d) The use of grants and City funds to promote the preservation and conservation of historically and aesthetically significant archaeological sites, historic sites, and historic districts.
  - (e) The deliberations and decisions of other public agencies affecting the physical development and appearance of historically and aesthetically significant archaeological sites, historic sites, and historic districts.
  - (f) Integration of historic preservation concepts as an ongoing part of all City planning efforts.
- (E) ***Final Actions.*** All final actions of the Historic Preservation Board may be appealed to the City Commission, pursuant to the procedures of Chapter 2.

## ARTICLE 2.2      GENERAL PROCEDURES

### Section 2.2.1 Process for Review and Action.

The procedure for review and final action of an application will vary according to the type of application and the decision-maker authorized under these Land Development Regulations to approve or deny the application.

- (A) ***General Processing Schedule.*** Within 120 days after the Director has deemed an application complete and sufficient, or 180 days for applications that require final action through a quasi-judicial hearing or public hearing, the City will approve, approve with conditions, or deny the application. This timeframe applies to the City's review period and does not apply to the time period the applicant uses to respond to comments and resubmit plans or documentation. The applicant or the Director may request an extension of time for a decision. The request must be in writing and made prior to the 120 or 180 period, as applicable. If the extension is agreed upon by the applicant and Director, the new time for the decision shall be memorialized in writing. There shall be no limitation on the number of extensions agreed upon for the review process.
- (B) ***Procedures for submitting and processing applications.*** This Section sets forth the obligations of both the City and the applicant for timely due process for review and action on development, land use, or other applications.
  - (1) ***Initiation of applications.*** Any person, firm, or corporation owning property within the City may initiate an application for development approval.
  - (2) ***Application form.*** When submission of an application is required prior to review or action by the city, the applicant shall utilize the forms provided by the Development Services Department. The applicant is responsible for providing complete and accurate information and sufficient documentation to determine compliance with these Land Development Regulations and other city ordinances, and for consistency with the Comprehensive Plan, if applicable.
  - (3) ***Filing.*** Applications shall be filed at such times as prescribed by the Director.
  - (4) ***Fees.*** All fees required for the application(s) shall be submitted with the application. Applications missing required fees will not be accepted.
  - (5) ***Sufficiency Review and Determination.*** Within 10 business days of the submission of an application, a determination shall be made as to whether or not the application contains complete and sufficient information for substantive review. The applicant shall be notified if any deficiencies exist and the information necessary for review to commence. Review of the application shall commence after a determination that the application is complete.

- (6) ***Refiling of Automatically Withdrawn Applications:*** Should an applicant wish to re-file an application once withdrawn pursuant to this Section, the Director shall determine whether the applicant must follow the procedure and submittal requirements for a new application, or whether the application may be reactivated with a lesser fee and submittal of only the deficient or missing items. This determination shall be based upon the amount of time that has elapsed since the application was automatically withdrawn, the extent to which the application was incomplete or deficient, and whether any amendments to the comprehensive plan or Land Development Regulations have occurred that may affect the review of the application.
- (C) ***Administrative review for technical compliance.*** Once an application is determined to be sufficient, the application will be circulated for technical review.
- (1) ***Informal Review.*** Certain Level 1 Site Plan applications may only require technical review by the Development Services Department and will be reviewed within 10 business days after the determination of sufficiency.
- (2) ***Technical Advisory Committee (TAC).*** Applications that require review by Development Services and other City Departments or external agencies shall be distributed at the next regularly scheduled TAC meeting following the determination of sufficiency.
- (a) TAC review comments shall be provided in writing to the applicant no later than 30 days from the distribution date, unless a reasonable extension of time, not to exceed 60 days, is needed due to the complexity, size, or other characteristic(s) of the application.
- (b) Review comments may include requests for additional information or require resubmissions of documents.
- (c) Review comments that require relief or other board action prior to a determination of compliance by technical reviewers will not receive final TAC comments until the dependent board action is complete.
- (d) Resubmissions will be distributed to TAC for compliance review. Resubmissions must be provided within 60 days of the receipt of comments and shall include a written statement identifying how each review comment has been addressed. The applicant and City may agree to a reasonable extension of time based upon circumstances, such as the complexity, size, or necessary relief though a board action; however, failure to contact the City within 60 days of the receipt of TAC comments will be considered a withdrawal of the project and the application file will be closed.
- (e) TAC review is considered complete when all technical comments have been addressed or an application for concurrent relief is submitted.

(D) **Board Scheduling.** Upon determination by the Director that the TAC review process and any required advisory board review is complete, and all required public notices are provided, an application can be scheduled for Board review.

- (1) **Agenda assignment.** Applications will be placed on the next available board meeting that affords adequate time to meet public notice requirements.
- (2) **Prerequisite actions.** When an action of one Board, or approval body, is dependent upon the action of another Board, it is necessary that the dependent action not be taken until the prerequisite action is completed. Examples of prerequisite actions include, but are not limited to:
  - (a) Granting of a variance prior to site plan approval, with the exception of variance requests under the purview of the HPB or PZB.
  - (b) Obtaining administrative relief prior to site plan approval.
  - (c) Approval of a rezoning prior to action on a conditional use or site plan.
  - (d) Granting of other relief that requires City Commission action.
- (3) **Recommendations.** Development applications that require forwarding of board recommendations shall be considered by the City Commission at the following available meeting provided public notice requirements and any deadlines established by the City Clerk's Office can be met. When an application is conditioned upon certain items being completed prior to consideration by the City Commission, documentation that such items are completed must be provided prior to scheduling.
- (4) **Retroactive action.** Applicants seeking retroactive approval for compliance with code violations will be scheduled for the first available meeting and are prohibited from requesting an alternate meeting date.

(E) **Board Action**

- (1) A written report shall be prepared by Staff for Board review, providing an assessment of the application based on consistency with the adopted Comprehensive Plan, compliance with the criteria in the LDR, and any other relevant City ordinances or external agency requirements, and an analysis with the required findings for the application type.
- (2) The Board may approve, approve with conditions, or deny the application using findings to support the decision. A denial shall include a reference to the authority for denial.
- (3) **Approval with conditions.** In granting approval to any development application, the

granting body may impose whatever conditions it deems necessary to insure:

- (a) The compatibility of the use with nearby existing and proposed uses.
  - (b) Consistency with the requirements of these Land Development Regulations, including but not limited to concurrency.
  - (c) Consistency with objectives and policies of the Comprehensive Plan.
  - (d) The fulfillment of requirements of these Land Development Regulations which should have or could have been fulfilled prior to the approval action but which were not, due to conditions beyond the control of the applicant.
  - (e) The fulfillment of requirements of these Land Development Regulations which could have been fulfilled prior but remain outstanding, providing that they will be accommodated in a later stage of processing.
  - (f) Notwithstanding the provisions above, neither a final subdivision plat, nor an abandonment of a right-of-way or an easement shall be approved subject to conditions.
- (4) ***Findings upon approval.*** Prior to the approval of a development application, certain findings must be made in a form which is part of the official record. Article 3.1 establishes such required findings.
- (5) ***Re-application.*** Whenever the City Commission or Board has taken final action as a denial for a development application:
- (a) Any further application for the same request shall not be considered on any part or all of the same property for a period of 36 months from the date of such action.
  - (b) Changes to other land use or zoning designations on any part or all of the same property may be considered six months from the date of such action.
  - (c) The time limits stated above may be waived by three affirmative votes of the City Commission when such action is found-necessary to prevent injustice or to facilitate the proper development of the City. Further, the above limitations shall not apply to an application that expires during processing or denied.

#### **Sec. 2.2.2. Financial guarantees.**

This Section establishes the parameters and procedure associated with providing a financial guarantee to provide for the timely and proper installation of public improvements that are required to support the proposed development.

- (A) ***Items requiring a financial guarantee.*** Any improvement for which the City will assume responsibility or which is necessary to adequately provide service to, or on, a site shall have provisions for guaranteeing its installation and that it properly functions. Such improvements include, but are not limited to:
- (1) Water mains and fire hydrants;
  - (2) Sewer mains and lift stations;
  - (3) Drainage systems whether publicly or privately maintained
  - (4) Street improvements whether on public or private street systems;
  - (5) Street lighting;
  - (6) Traffic signal installation;
  - (7) Any improvement which is to be located in a public right-of-way;
  - (8) Street trees;
  - (9) Landscaping pursuant to Subsection (G).
- (B) ***Required in-lieu of improvements.*** A financial guarantee may be provided in-lieu of installation of infrastructure improvements in situations where a developer desires to have a final plat recorded or a site plan certified prior to installation of such improvements. Such financial guarantee must be provided to the City Engineer prior to the City Engineer releasing an approved plat for recording or a certified site plan for building permit approval.
- (C) ***Required for warranty.*** A financial guarantee shall be required as a part of an agreement between the City and the developer to defray all expenses incurred by the City because of defects in materials or workmanship used in the required improvements. The guarantee shall be for a minimum period of one year after acceptance of the improvement.
- (D) ***Amount.*** The amount of a financial guarantee required in-lieu of improvements shall be equal to 110 percent of the cost of the improvements as estimated by the developer and concurred with by the City Engineer. A financial guarantee for a warranty not associated with an in-lieu situation shall be for ten percent of the cost of original installation.
- (E) ***Forms.*** A financial guarantee may take any of the following forms. However, each individual document must be approved by the City Attorney as to form.
- (1) Surety Bond, or other equivalent security instrument, conditioned to secure the construction of the required improvements in a satisfactory manner within a one-year time period. The bond shall be executed by a surety company authorized to do business in Palm Beach County. No such bond shall be acceptable unless it is enforceable by, or

payable to, the City. The surety bond shall be in the form provided in the Subdivision Forms.

- (2) Deposit with the City in the form of cash, cash placed in escrow, a cashier's check, or a certified check.
  - (3) Letter of Credit established with a financial institution wherein the City has access to funds in the event it becomes necessary for the City to complete installation and/or maintenance of the improvements. The letter of credit shall be in the form provided in the Subdivision Forms.
- (F) ***Release of funds.*** The City Engineer shall release all funds at the time of acceptance of improvements with the exception of an amount of ten percent which shall be retained for a period of one year after acceptance of all improvements. This amount may be used by the City if it becomes necessary to provide for the repair or maintenance of the improvement within that one-year period. Upon request and at the time of acceptance of a specific improvement, the City Engineer may release any funds which are provided by deposit or letter of credit to the extent that they were provided for the improvement being accepted.
- (G) ***Landscaping bond.***
- (1) If the landscaping requirements of this Section have not been met at the time that a Certificate of Occupancy could be granted and is requested, the owner or his agent must post with the Development Services Department a bond of 110 percent covering the costs of materials, labor and other costs incidental to the installation of the required landscaping.
  - (2) A landscape bond will only be accepted in extreme hardships where the landscape plant materials are not available due to drought or freeze, or similar conditions occur that would warrant acceptance of the bond as determined by the Director.

#### **Sec. 2.2.3. Developer's agreements.**

Developer's Agreements shall be allowed if the City determines in its sole and absolute discretion that entering into such an agreement is in the best interests of the City. All Developer's Agreements shall conform to the provisions set forth in Florida Statutes §§ 163.3220 through 163.3243.

#### **Sec. 2.2.4. Certification of actions taken.**

This Section sets forth responsibilities with respect to ensuring that an action taken by the City on a development application is understood by the applicant; and sets forth the procedures for obtaining a certified copy of any such action.

- (A) ***Responsibilities of the applicant.*** It is the responsibility of an applicant, or his agent, to keep abreast of the status of his development application. Correspondence from the City to a



designated agent is the only act required by the City with respect to notification of status. Actions of a review Board or the approving body are not required to be provided to the applicant or agent. However, upon written request a certified copy of minutes or a letter of certification shall be provided.

- (B) ***Certification of plans.*** When a site and development plan has been approved, or approved subject to conditions: upon receipt of a revised plan which includes all required modifications, including Architectural Elevations and Landscape plans, the Director, or designee, shall sign and have the site plan stamped "Approved." All subsequent development activity shall be carried out pursuant to a certified site plan.
- (C) ***Recording of plats.***
- (1) ***Financial guarantee required:*** Any financial guarantee for the installation and/or warranty of public improvements required by Article 2.2 must be provided and approved prior to Commission review of a subdivision plat,
  - (2) ***Plat recording:*** Upon approval of the final plat for a subdivision, a signed and sealed reproducible mylar of the plat shall be executed by the Mayor and other appropriate officials. Upon release by Development Services, the City Clerk shall cause the final plat to be recorded in the public records. Building permits shall not be issued for structures until such time as the plat has been recorded.
- (D) ***Recording other documents:*** Whenever documents are to be recorded as a condition of approval, the applicant is responsible for recordation and providing certified copies of the recorded document to the City Clerk in a number as prescribed by the Clerk. Recordation of official City documents (e.g. a Resolution of Abandonment of an Easement) shall be made under the auspices of the City Clerk.
- (E) ***Establishment of project.*** All approvals shall be considered established when it meets one of the following tests:
- (1) Improvements representing 25 percent of the total cost of all improvements, excluding demolition, associated with the project approval.
  - (2) A certificate of occupancy has been issued for use of the property pursuant to the development approval.
- (F) ***Expiration of approvals.***
- (1) ***Conditional uses, site plans, zoning certificates of use.*** All approval expiration dates for Conditional Use, Site Plans, and Zoning Certificates of Use shall be as follows:
    - (a) Approvals of Site Plans, Conditional Uses, and Conditional Use modifications shall be valid for a period of 24 months. Level 2-4 Site Plans or Conditional Use actions that modify an approved and established project, shall be considered a new

approval and have a new 24-month approval period. Level 1 Site Plan modifications to an approved, yet unestablished project, shall be valid until the expiration date for the original Site Plan and/or Conditional Use approval.

- (b) Approval of a Zoning Certificate of Use shall be valid for a period of 180 calendar days from the date of approval by the Director. If a Business Tax Receipt application is not submitted prior to the expiration date, a new Zoning Certificate of Use must be requested, and a new fee will be required.
  - (2) **Extensions.** Extensions of approved applications may be granted pursuant to LDR Section 2.2.4(H).
  - (3) **Relief from parking requirements, waivers, adjustments.** These approvals, associated with a specific development application, shall remain valid for the same period as said development application, do not run with the land, nor are they transferable to another development proposal.
  - (4) **Abandonments, plats.**
    - (a) Once approved by the City Commission, the plat must be recorded within 18 months. If the final plat is not recorded within 18 months, the approval expires.
    - (b) A plat may be vacated by action of the City Commission, pursuant to the requirements of Chapter 2.
    - (c) Abandonments and Plats are final actions which run with the land.
  - (5) **Master development plans.** Master Development Plans approved either by the Planning and Zoning Board or the Historic Preservation Board shall be valid for a period of 24 months.
  - (6) **Murals.** Mural permits shall be valid for a period of 12 months from the approval date. The installation of an approved mural shall be completed and inspected no later than 12 months from the approval date.
- (G) **Extensions.** Extensions may be granted to a project approval, pursuant to the following:
- (1) **General.**
    - (a) A written request for an extension must have been received by the City at least 45 days prior to the expiration date;
    - (b) The letter must set forth the basis and reason for the extension;
    - (c) The extension shall be considered by the same body which granted the original approval;

- (d) The extension, if granted, shall be for 18 months unless otherwise stated.
- (2) ***Construction has commenced.*** When there are substantial improvements on the site but the 25 percent establishment standard is not met, the granting agency shall consider the diligence and good faith of the developer to actually commence and complete construction. In this case, an extension to the originally approved project without change or without evaluation pursuant to subsection (3), which follows, shall be granted to enable the developer to complete the project as opposed to allowing a continuing approval in order to more readily sell the land and/or project. In considering "diligence and good faith", the granting body shall consider:
  - (a) When the construction commenced (construction which is commenced immediately preceding expiration generally indicates a lack of good faith);
  - (b) The extent to which construction has proceeded;
  - (c) The extent to which there has been a bonafide continuous effort to develop but because of circumstances beyond the control of the developer, it was not possible to meet the 25 percent standard.
- (3) ***No construction.*** When the project has not commenced construction, or construction has not been deemed substantial, the request for extension shall be considered pursuant to the following:
  - (a) The project shall be evaluated pursuant to the Land Development Regulations in effect at the time of consideration of the extension request and shall comply with such current requirements;
  - (b) Additional submittal information including a new application and copies of previously submittal material may be required;
  - (c) The granting body must make findings applicable to the approved application type.
  - (d) The granting body may impose additional conditions of approval to ensure compliance with any applicable changes to regulations or changes in circumstances which have occurred since the previous approval.
- (4) ***Litigation preventing construction.*** When a lawsuit is filed against the City, a developer, owner or applicant challenging the granting of a development approval by the City, an extension of the development approval shall be granted without further review. The extension of time shall be effective until the litigation is concluded. In no event shall the extension of time exceed seven years from the initial date of approval of the development application. If the litigation is not resolved within a maximum of seven years from the initial date of approval, the developer, owner or applicant shall be required to follow the extension requirements of this Section. The litigation shall be

deemed to be concluded after all appeals have been exhausted and a Final Order/Decision from the Court having jurisdiction over the matter has been entered. This subsection does not apply to lawsuits filed by the developer, owner or applicant against some other party, nor does it apply in any way to allow the developer, owner or applicant to extend the 24-month deadline because of financial issues.

- (a) This subsection does not apply to lawsuits filed by the developer, owner or applicant against some other party, nor does it apply in any way to allow the developer, owner or applicant to extend the 24-month deadline because of financial issues.
  - (b) To be eligible for an extension of time, the developer, owner or applicant seeking an extension must send written notification and documentation that shows ongoing litigation to the City within 30 days of the service of the suit, unless the City is a party to the suit.
  - (c) Subsection 2.4.4(F)(4) shall also apply to those development applications that were approved by the City prior to the adoption date of this ordinance, which approval is still valid in that the approval period has not expired, but construction has not commenced as litigation over the approval of the development application has prevented the commencement of construction. In order to qualify under this exception provided for in this paragraph, the developer, owner or applicant must provide the required notification/documentation to the City within 30 days of the adoption of this ordinance.
- (5) Development orders eligible for extension by State of Florida Statutes must be submitted prior to the expiration date.

## ARTICLE 2.3      PRE-APPLICATION REQUESTS

This Article establishes procedures for optional preliminary review processes for potential development. The purpose of this process is to provide applicants with an informal, non-binding review of a proposal without full submission and procedural requirements.

### (A) *Zoning Verification Letters*

(1) **General.** An application for a Zoning Verification Letter (ZVL) may be submitted by any individual seeking verification of the zoning status or other zoning-related information of a specific parcel(s) of land.

### (2) **Review procedures.**

(a) **Applications.** Applications shall be made pursuant to the requirements of Chapter 2. The applicant is solely responsible for the completeness and accuracy of the information provided in the application.

(b) **Staff review.** Upon receipt of a completed application, the Director shall review the application and issue a ZVL that may only address the following information:

1. The land use designation of the property.
2. The zoning district of the property.
3. A list of permitted uses in the property's zoning district.
4. Verification that a particular use is permitted within the property's zoning district.
5. The development regulations applicable to the property.
6. Identification of any outstanding notice of violations issued for code enforcement violations of the property.

### (3) **Duration, limitations, effect.**

(a) **Duration.** Zoning Verification letters do not expire; however, the Land Development Regulations are continually under review and may change at any time, and any ZVLs issued are subject to changes adopted after the issuance of the letter. Applicants have the responsibility of ensuring that all applicable rules, regulations, and circumstances have not changed subsequent to the issuance of a ZVL.

(b) **Limitations.** If the Director determines that a ZVL was based on inaccurate, incomplete, or misleading information or if the ZVL does not comply with this

Chapter, then the City Manager may at any time issue a modified ZVL that complies with this Chapter or revoke the ZVL.

- (c) **Effect.** A ZVL does not authorize development activity. The determinations made by a ZVL are not subject to appeal.

- (B) **Pre-application meeting.** A pre-application meeting is suggested to avoid unnecessary delays or confusion in the application and review processes. If requested, an informal meeting will be scheduled among the applicant, Development Services staff, and other appropriate city staff to discuss the proposal and to review any preliminary plans. The usefulness of the meeting is largely dependent upon the accuracy of the information and level of detail provided by the applicant. Discussions at the meeting must not be construed to be a preliminary approval of the development concept as the Land Development Regulations are subject to change.

(C) **Concept plan review by a board.**

- (1) **General.** A property owner, business owner, or potential developer may submit an application to appear before the appropriate development board for an informal, non-binding, concept plan review of a potential development proposal.
- (2) **Submission requirements.** The depth of review is largely dependent upon the accuracy of information and level of detail provided. A completed application must be received at least 30 days prior to a regularly scheduled meeting of the Board that includes, at a minimum, the following:
  - (a) A written description of the potential development including, but not limited to, existing zoning, conditions, uses on the site, intended use, and proposed improvements.
  - (b) A survey, photographs of existing conditions, or other representation of the property to identify the site layout, existing improvements, and character.
  - (c) A graphic representation of the proposed modifications.
- (3) **Non-binding review.** The material provided by the applicant shall be presented to the review board as submitted, without staff review and analysis. The Board shall review and comment on the potential development at a duly noticed public meeting. No action will be taken by the Board, no written report will be provided, and the discussions at the meeting must not be construed to be a preliminary approval of the development concept.

(D) **Sketch plan review by staff.**

- (1) **General.** An applicant may request informal sketch plan review of a potential development proposal by the Director for a non-binding written assessment of a

proposal as it pertains to the City's Comprehensive Plan, development philosophy, availability of utilities and services, and general compliance with land development regulations.

- (2) ***Submission requirements.*** The depth of review is largely dependent upon the accuracy of information and level of detail provided. A completed application must include, at a minimum, the following:
  - (a) A letter stating the applicant's interest in the property and a description of the proposed development.
  - (b) A general location map and a survey or other representation of the property, which identifies its general dimensions and character.
  - (c) A graphic representation of one or more ways the developer intends to develop the property.
- (3) ***Review and comment process.*** The application shall be distributed to the Technical Advisory Committee (TAC) for review. Within 30 days of submission, the applicant shall be invited to a TAC meeting to discuss the review of the proposal. Following that meeting, the Director shall issue a non-binding letter of comment in accordance with the intent of Subsection (C)(1) above.
- (E) ***Combined review.*** An applicant may request a combination of the above processes and is subject to both fees.

**ARTICLE 2.4                      DEVELOPMENT APPLICATION REQUIREMENTS**

**Section 2.4.1            Applicability**

The following requirements shall apply to all applications, unless otherwise modified for specific articles in this Chapter.

**Section 2.4.2            Application Submittal Requirements**

- (A) ***Standard Forms and Requirements.*** All approvals requested under this Chapter require submittal of a City application, including the information and items enumerated on the submittal checklist accompanying the application form, and an application fee as established by the resolution of the City Commission.
- (B) ***Proof of Ownership.*** Proof of ownership shall be established by a copy of the latest warranty deed, as recorded with the County Clerk, a certificate from an attorney-at-law or a title insurance company certifying the current fee simple title holders of record, and the nature and extent of his or her interest therein. Corporations shall provide the names and addresses of the corporation and principal executive officers.
- (C) ***Authorization to File.*** If the applicant is other than a single person owner, the written consent of the owner(s) must be provided in a certified form. When an application is executed on behalf of a corporation or a business entity, documentation must be provided that demonstrates the corporation's representative is authorized to act on its behalf.
- (D) ***Waiver or Combining of Submittal Requirements.*** The Director has the authority to waive or allow combining the submittal of a required item, other than an application fee, on a case-by-case basis, upon finding that such material is not relevant or necessary to fully analyze or make a determination relative to an application-
- (E) ***Provision of Additional Information.*** The Director has the authority to require submission of additional information or material on a case-by-case basis upon determination that such information or material is necessary to adequately evaluate a development proposal. Additional information or materials may be necessary based upon the scope of the request, circumstances that are particular to the physical, locational, or historical aspects of the property or properties, or a change in regulations directly or indirectly creates the need for the item.
- (F) ***Fees.*** Application fees shall accompany each application unless exempted in Subsection (E), below. Application fees are established and amended by resolution of the City Commission approving a fee schedule. Fees shall be charged in an amount to compensate the city for costs incurred to review and process an application. Such costs include, but are not limited to, public notice advertisements; public notice postage; and planning, engineering, scientific, technical, and related professional and staff services necessary to process the application.



- (1) **Cost Recovery.** Applications requiring additional technical analysis by credentialed professionals, such as traffic studies, Special Flood Hazard Areas, arborist reports, etc. are subject to full cost recovery. The applicant is responsible for the costs of review to be performed by an outside consultant selected by the City of Delray Beach. The applicant shall pay prior to review an initial preliminary deposit of \$10,000.00 which shall be credited toward the overall costs, and shall pay additional deposits of half of the initial deposit whenever the account balance is 20 percent or less of the original deposit. The review costs shall cover 100 percent of the city staff costs and outside consultant fees required for the review. At the time the Director determines that no further action is necessary for the review of the request, any remaining funds shall be refunded to the applicant within two months of the determination.
- (2) **Fee Exemptions.**
- (a) Application and permit fees shall not apply to requests initiated by the City, any agency of the City, or by other units of government.
  - (b) Waiver of payment of development application, plan check and permit fees may be granted by the City Manager upon a written request from eligible non-profit and service organizations. Those organizations eligible for waiver consideration are:
    - 1. Non-profit organizations currently receiving a portion of their annual operating budget from the United Way and/or the City and possessing a 501C(3) designation from the State of Florida.
    - 2. Service organizations which elect to sponsor and participate in special event and/or fund raising activities that are of benefit to the general public. For this purpose, eligible organizations must provide in writing the extent of their involvement with the proposed activity. A group's physical presence (active involvement) during the event is required.
  - (c) The waiver of fees is applied in the following manner:
    - 1. For fees assessed for development applications, 100 percent of assessed fees may be waived.
    - 2. For Plan Check and Permit Fees, no more than 70 percent of the assessed fees may be waived.
- (2) **Refunds.** Refunds or partial refunds may be issued at the discretion of the Director for an application withdrawn prior to Board review.
- (G) **Notice requirements.** All notice information required pursuant to Article 2.6 must be submitted with the application.

### Section 2.4.3 Specifications for Plans and Documents

#### (A) *Credential requirements of the preparer.*

- (1) ***Plans to be certified.*** The following submissions are to be signed and sealed by the profession, which is so authorized by Florida Statutes, (Board of Professional Regulation):
  - (a) Boundary Survey, As-built Survey, and Sketch and Legal Description by a licensed surveyor or licensed engineer;
  - (b) Traffic statement or study by a licensed engineer;
  - (c) A landscape plan by a licensed landscape architect;
  - (d) A site development plan by a licensed architect, a licensed landscape architect, or licensed engineer;
  - (e) Final Engineering Plans by a licensed civil engineer;
  - (f) Photometric plans shall be signed and sealed by a licensed professional knowledgeable in lighting design, an electrical engineer, or other licensed professional that the City Engineer deems qualified.
  - (g) Architectural elevations by a registered architect.
  - (h) Drainage plans prepared by a licensed engineer, signed and sealed.
  - (i) Water and Sewer plans prepared by a licensed engineer, signed and sealed.
- (2) ***Exceptions.***
  - (a) ***General.*** Exceptions to the above sign and seal requirement include the preparation of plans, when allowed, by owners and others, who are not registered professionals, pursuant to Florida State Statute.
  - (b) ***Site plans.*** A site plan to be certified as meeting conditions of approval must be signed and sealed without exception. A site plan submission which is to be considered through the formal site plan review process shall be signed and sealed when the site planning involves the application of drainage, landscaping principles, building relationships, and traffic flow concepts. However, the Director may accept a site plan prepared by an owner, or other person, when the site plan is considered as a preliminary submission or when the essence of the review is to evaluate compliance with code requirements as opposed to application of design principles to the proposed development.

(B) ***Drainage plans.***

- (1) ***General.*** Prior to approval of a plat, certification of a site plan, or issuance of a building permit, as is appropriate, the City Engineer shall review and approve the associated drainage plan(s).
- (2) ***Required information.*** In addition to the standard application requirements, the following information may also be required to approve a drainage plan:
  - (a) A standard application prepared for the South Florida Water Management District, the Lake Worth Drainage District, or the Florida Department of Transportation.
  - (b) A permit issued by the South Florida Water Management District, the Lake Worth Drainage District, or the Florida Department of Transportation, as appropriate or a letter of exception from them.
- (3) ***Procedures.***
  - (a) Preliminary Plans: Such drainage plans shall be provided as a part of the development application and shall be processed as are other portions of such submission.
  - (b) Final Drainage Plans: A final drainage plan which requires approval by either South Florida Water Management District, the Lake Worth Drainage District, or the Florida Department of Transportation shall be submitted to them under separate application with a copy of the submission, clearly noted as such, provided to the City prior to, or concurrent with, a final plat or a request for certification of a site plan or issuance of a building permit.
- (4) ***Findings.*** Prior to approving any drainage plan, the City Engineer must find that the drainage plan:
  - (a) Has been approved by the either South Florida Water Management District or Lake Worth Drainage District, as appropriate and if necessary;
  - (b) Is in compliance with general engineering practice as exercised by the City of Delray Beach; and,
  - (c) Is consistent with and compatible to the approved site plan, landscaping plan, and/or associated plat.

(C) ***Water and/or sewer plans.***

- (1) ***General.*** Prior to approval of a plat, certification of a site plan, or issuance of a building permit, as is appropriate, the Utilities Director, or designee, must review and approve the associated water and sewer plans.

(2) **Required information.** The following information is required in order to certify the acceptance of water and sewer plans:

- (b) A standard application prepared for the County Department of Health and Rehabilitative Services (H.R.S.) or the City of Delray Beach, as appropriate.
- (c) A permit issued by the H.R.S. or a letter from the City Director of Utilities stating that such a permit is not required.

(3) **Procedures.**

- (a) **Preliminary plans and/or small scale projects.** Such plans shall be provided as a part of the development application and shall be processed as are other portions of such submission. These plans do not need to be certified.
- (b) **Final plans.** Final water and sewer plans which require H.R.S. approval shall first be submitted to the City's Utilities Department for review and approval prior to forwarding to H.R.S. Such plans must be provided to the City prior to, or concurrent with, a final plat or a request for certification of a site plan.

A project which does not require review and approval by the H.R.S. shall be submitted directly to the City Utilities Department for approval. Upon approval, the Director of Utilities shall notify the City Engineer of such action.

(4) **Findings.** Prior to certifying any water or sewer plan, the Utilities Director, or designee, must find that the plan:

- (a) Has been approved by the either Health Department or the Director of Utilities, as appropriate;
- (b) Is in compliance with general engineering practice as exercised by the City of Delray Beach; and,
- (c) Is consistent with and compatible to the approved site plan, landscaping plan, and/or associated plat.

**Section 2.4.4, Annexations**

(A) **General.** Any property owner with land located in an unincorporated area that is contiguous to the municipal boundary of Delray Beach may request that his or her property be annexed. Additionally, the City may initiate an annexation of private property if a water service agreement has been executed, and as otherwise allowed pursuant to Florida Statutes.

(B) ***Submittal Requirements***

- (1) **Voluntary Annexations:** An application for voluntary annexation must be accompanied by applications for a Land Use Map amendment and an amendment to the official zoning map (“rezoning”), pursuant to submittal requirements in Chapter 2.
- (2) **City-Initiated Annexations:** Requirements for non-voluntary annexations are as established in Florida Statutes Chapter 171.

(C) ***Procedure***

- (1) **Voluntary Annexation:** A voluntary petition for Annexation must be processed concurrently with land use and rezoning applications, which shall be processed in the following general sequence.
  - (a) A request for voluntary annexation shall be in the form of an application to the City Clerk. The application must identify the property to be annexed by legal description, identify the points of contiguity on a survey, and identify the desired land use and zoning designations.
  - (b) Within 10 calendar days of receipt of the application that bears the signatures of all owners in the area proposed to be annexed, the City Clerk shall submit a copy of the application to the County Administrator and County Planning Director pursuant to Section 5 of Palm Beach County Ordinance No. 2007-018.
  - (c) Determination of completeness by the Director and administrative review of the complete application.
  - (d) Review at a public hearing that has been noticed pursuant to Article 2.6. The Planning and Zoning Board shall make a recommendation to the City Commission based on the required findings.
  - (e) The City Clerk shall provide a copy of the notice via certified mail to the Board of County Commissioners (F.S. 177.044) at least 10 days prior to publishing the first newspaper notice for City Commission consideration of the ordinance,
  - (f) City Commission public hearing noticed pursuant to Article 2.6, to consider the ordinance for annexation on first reading. The ordinance must include a map that

clearly shows the annexed area and a complete legal description of the area by metes and bounds.

- (g) If approved on first reading, City Commission public hearing to consider the applications on second and final reading of the ordinances Notice of the hearing shall be published in a newspaper of general circulation within the city at least once each week for two consecutive weeks. The notice shall comply with Florida Statutes Section 171.044, as amended from time to time.
- (2) ***City-Initiated Annexation:*** City-initiated annexations require a recommendation of the Planning and Zoning Board to the City Commission and shall be processed pursuant to applicable requirements of Florida Statutes Chapter 171.
- (D) ***Required Findings.*** The City Commission must make findings that the annexation is consistent with the adopted Comprehensive Plan, as may be amended from time to time, and that the annexation complies with Florida Statutes Chapter 171.
- (E) ***Imposition of Conditions.*** Prior to consideration of an annexation ordinance, the City Commission may require the applicant(s) to enter into a pre-annexation agreement that provides for conditions precedent to annexation.

**Section 2.4.5, Land Use Actions**

**(A) *Amendments to the Comprehensive Plan.***

- (1) Amendments to the Comprehensive Plan shall be processed pursuant to the Florida Community Planning Act in F.S. 163.3184 through 163.3253, as may be amended from time to time.
- (2) Requests to amend the Land Use Map are subject to the Performance Standards in Chapter 3, as set forth in these Land Development Regulations.
- (3) Map amendments proposed within historic districts shall be reviewed by the Historic Preservation Board and a recommendation made to the City Commission; all other proposed Map amendments shall be reviewed by the Planning and Zoning Board and a recommendation made to the City Commission.

**(B) *Change of zoning district designation.***

- (1) ***Initiation.*** Amendments to the Official Zoning Map (“rezoning”) may be initiated by the city, or by the owner of the property subject of the proposed amendment.
- (2) ***General.*** The City Commission, by ordinance, after review and recommendation for approval by the Planning and Zoning Board may amend the Official Zoning Map.
- (3) ***Required information.***
  - (a) Standard application items.
  - (b) Traffic analysis that addresses the development of property under reasonable intensity pursuant to the existing and proposed zoning
  - (c) A statement of the reasons for which the change is being sought must accompany the application. Valid reasons for approving a change in zoning include:
    1. That the zoning had previously been changed, or was originally established, in error;
    2. That there has been a change in circumstance which makes the current zoning inappropriate;
    3. That the requested zoning is of similar intensity as allowed under the Land Use Map and that it is more appropriate for the property based upon circumstances particular to the site and/or neighborhood.
- (4) ***Procedure.*** A rezoning application shall be processed as follows:

- (a) Receipt and certification as complete;
  - (b) Consideration at a public hearing before the Planning and Zoning Board and any applicable advisory board for recommendation;
  - (c) Forwarding of a recommendation for approval to the City Commission and consideration at first reading of the enacting ordinance;
  - (d) Public hearing before the City Commission and adoption or rejection at second reading.
- (5) **Conditions.** A rezoning may be conditioned in such a way to limit the intensity of development when such a limitation is necessary in order to provide for concurrency or to mitigate against the violation of an adopted level of service standard.
- (6) **Findings.** In addition to provisions of Chapter 3, the City Commission must make a finding that the rezoning fulfills at least one of the reasons listed under Subsection (2) and is in furtherance of the public health, safety and welfare.
- (7) **Limitations of rezonings.** Consideration of a rezoning request after a denial is subject to Article 2.2.



**Section 2.4.6, Regulation of Uses**

**(A) *Establishment of a Conditional Use.***

- (1) ***General.*** The City Commission, by motion, after review and recommendation for approval by the Planning and Zoning Board may approve or reject a request for a conditional use.
- (2) ***Required information.*** Standard application items shall be provided. In addition, if establishment of the use requires new improvements or substantial changes to existing improvements, a sketch plan showing the extent of those improvements shall be provided. At its discretion, the Planning and Zoning Board may require submission of a site plan prepared pursuant to City standards. At the applicant's discretion, a simultaneous site plan application and conditional use application may be filed.
- (3) ***Procedure.*** A conditional use request shall be processed through the following sequence:
  - (a) Receipt and certification of a complete application.
  - (b) Consideration at a public hearing before the Planning and Zoning Board.
  - (c) Forwarding of a recommendation of approval to the City Commission.
  - (d) Action by motion of the City Commission to either approve, approve subject to conditions, or deny.
- (4) ***Conditions.*** Conditions may be imposed pursuant to Article 2.2. In addition, limitations on the hours of operation and/or the longevity of the use may be imposed.
- (5) ***Findings.*** In addition to provisions of Chapter 3, the City Commission must make findings that establishing the conditional use will not:
  - (a) Have a significantly detrimental effect upon the stability of the neighborhood within which it will be located.
  - (b) Hinder development or redevelopment of nearby properties.
- (6) ***Modification of a conditional use approval.*** An approved Conditional Use may be modified. If the modification involves only the implementation of or compliance with the conditions of approval, the modification may be approved by the Director. If the modification involves intensity of use or hours of operation, the modification must be approved by the Planning and Zoning Board. If the Board finds that the requested modification is significant, then the modification must be heard as a new Conditional Use application. Any request for a modification may be denied.

- (7) ***Abandonment of an established conditional use.*** When an established conditional use is discontinued or abandoned for a continuous period of 180 days, or an intervening use is established, the conditional use may not be reestablished without a new application for said conditional use being filed, reviewed, and approved pursuant to this Subsection (E).

(B) ***Revocation of an established conditional use.*** The City Commission shall have the authority to revoke or modify an established conditional use with the concurring vote of four members.

(1) ***Procedure.***

- (a) The City Attorney shall prepare a written notice of violation to the property owner, business owner, and property manager citing the violation and time frame to correct the violation(s).
- (b) If violations are not corrected within the stated time frame, the City will notify the aforementioned parties by certified mail at least 30 days in advance of the public hearing date where the revocation of the conditional use permit will be considered.
- (c) Notification of the public hearing shall be published in the official newspaper at least ten (10) days prior to the hearing, and written notification of said hearing shall be mailed at least ten (10) days prior to all property owners within 500 feet of the perimeter of the property under consideration.
- (d) Development Services staff shall prepare a report for the public hearing and include the details of the violation(s), revocation findings, and an analysis of the terms of approval in consideration of the violation(s).

(2) ***Findings.*** A conditional use may be revoked by the City Commission only upon making a finding that:

- (a) Approval of the conditional use was obtained by misrepresentation of material fact; or
- (b) The conditional use is being exercised contrary to the terms of approval; or
- (c) The conditional use is having a significantly detrimental effect upon the stability of the neighborhood; or
- (d) The conditional use is hindering development or redevelopment of nearby properties.

(3) ***Revocation Terms.*** If City Commission finds that the conditional use must be revoked:

- (a) Operation of the use and/or the non-compliant component of the use (i.e. hours of operation) shall cease immediately.
- (a) Any improvements associated with the non-compliant component of the use must be removed immediately.
- (b) If a permit or other approvals are necessary for compliance with the revocation, then the removal must be complete within 60 days of the revocation.

**(B) *Zoning Certificate of Use***

- (1) **General.** A Zoning Certificate of Use is an administrative action by the Director required for any change of use to an allowed use, addition of use(s), or a change in business within an existing building where no exterior site improvements are required or proposed.
- (2) **Submittal requirements.** A completed application with a site survey, an exhibit showing the business floor plan, and any additional documentation necessary to assess the proposed use.
- (3) **Procedure.** A Zoning Certificate of Use shall be processed as follows:
  - (a) Receipt and acceptance of a complete application.
  - (b) Administrative review for compliance with the Land Development Regulations, Building Code, and Fire Code, and confirmation that no current violations are on file with the Code Enforcement Division. Additional information may be requested by the Department to assess the proposed use.
  - (c) Approval, Approval with conditions, or denial by the Director.
  - (d) An approval by the Director is required prior to application for a business tax receipt.
- (4) **Conditions.** The Director may impose reasonable conditions upon the issuance of a Zoning Certificate of Use.
- (5) **Expiration.** Approval of a zoning certificate of use shall be valid for a period of 180 days from the date of approval by the Director. If a business tax receipt application is not submitted prior to the expiration date, a new zoning certificate of use must be requested, and a new fee will be required.

**(C) *Determination of similarity of use.***

- (1) **General.** A determination of Similarity of Use shall be made only by the Planning and Zoning Board.

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- (2) **Required information.** A complete application that includes a written statement identifying:
- (a) The requested use and its description;
  - (b) The appropriate zoning designation; and
  - (c) Rationale as to why the use should be deemed similar to other uses already allowed in the identified zoning district.
- (3) **Procedure.** Upon receipt of a complete application, the request will be distributed to the City Manager and the City Commission with the date of the Planning and Zoning Board hearing. The request shall be placed on the next available agenda of the Planning and Zoning Board at which time action will be taken.
- (4) **Conditions.** The imposition of conditions is not appropriate as this item is an interpretation of the zoning code.
- (5) **Findings.** Prior to approving a requested determination of similarity of use, the Planning and Zoning Board must find that the requested use is, indeed, similar to other uses allowed in the zoning district and is in keeping with the stated purpose of the district.
- (D) **Temporary use permit.** A temporary use permit is required for any of the uses listed below. The granting authority of each use is as follows:

| TABLE 2.4.3-A – Granting Authority for Temporary Use Permits |   |
|--|---|
| Granting Authority   | Use   |
| City Commission  | <ul style="list-style-type: none"><li>▪ Circuses or Carnivals</li><li>▪ City Operated Facilities</li><li>▪ Seasonal Farmer's Market</li><li>▪ Temporary Parking Lots</li><li>▪ Horse Drawn Carriage Rides, Ice Skating Rink, Carousel, and Other Related Holiday, Seasonal/Temporary Uses</li></ul> |
| Chief Building Official                                      | <ul style="list-style-type: none"><li>▪ Sales Offices and Models at a Residential Development Site</li><li>▪ Construction Trailers and Compounds</li></ul>  |
| City Commission or Chief Building Official                   | <ul style="list-style-type: none"><li>▪ Uses under a Tent</li></ul>   |

- (1) **Rule.** No temporary use shall be allowed except as provided in this Subsection or as otherwise provided for in these regulations.
- (2) **Procedures.** Upon receipt of a complete application, the granting authority shall take the request under consideration and upon assurance that all applicable regulations and

requirements will be met, the authority shall issue a temporary use permit for a period of time as specified in the permit.

**(3) *Regulations and restrictions.***

**(a) *Uses under a tent.***

1. The use of a tent, or tents, shall only be as follows:
  - a. The sale of seasonal items which, when protected from the sun, provides for a less hazardous product for public use (i.e. Christmas tree sales);
  - b. Shelters to protect the public from the elements. Tents for these uses can be approved for up to three days by the Chief Building Official. Requests for more than three days up to a maximum of seven days requires City Commission approval.
  - c. The use of tents for retail sales or other commercial use is prohibited, unless specifically permitted in this section.
2. The tent and site shall comply with the following:
  - a. The tent shall be approved by the Fire Marshall for fire resistance.
  - b. Adequate fire protection equipment, in a type and capacity as approved by the Fire Marshall, shall be provided on the premises at all times.
  - b. Payment of a permit fee and a deposit of \$50.00 which shall be returned upon determination by the Chief Building Official that all debris resulting from the use has been removed from the site.
  - d. Permits for electrical and health and sanitation facilities, as applicable.

**(b) *Circuses and carnivals.***

1. An investigation of the applicant's business reputation shall be conducted by the City and the request shall not be approved if such investigation discloses tangible evidence that the conduct of the circus or carnival would pose a substantial threat to the public health, safety, morals, or general welfare.
2. Permits for electrical and health and sanitation facilities, as applicable, shall be obtained.
3. The nature of the advertising or promotion activity to be conducted for the circus or carnival.

4. Proof of whether or not the applicant, or the individual identified as having the management authority or supervision of the circus or carnival, has been convicted of any crime or misdemeanor and, if so, the nature of each offense and the penalty assessed for each offense.

**(c) *Seasonal farmer's market.***

1. A farmer's market may be permitted within that portion of the City's Transportation Concurrency Exception Area that is west of the Intracoastal Waterway, for the purposes of downtown revitalization, subject to the following restrictions:
  - a. The market must be sponsored by the Community Redevelopment Agency, the Downtown Development Authority, or other agency which is formulated for the purposes of economic development as approved by the City Commission.
  - b. Operation of the market is to be limited to the growing season (generally, November through May), but not more than one day per week, unless specifically authorized by the City Commission. The Commission shall establish the specific days and hours of operation, as well as the duration of the temporary use permit.
  - c. Products to be sold shall consist of agricultural produce, plants and flowers; baked goods; and cheeses. The Commission may also at its discretion approve the limited sale of related products such as handmade crafts, prepared foods, and promotional items bearing the name of the City and the market. The sale of such additional items, if approved, shall be limited to a specific number or percentage of the total vendors.
  - d. The Commission may approve the design elements of the market (i.e. site layout, types of tents/booths to be erected, etc.), or may defer such elements to the Site Plan Review and Appearance Board (SPRAB) or the Historic Preservation Board (HPB) as appropriate. All elements must comply with applicable health, safety and fire codes.
  - e. Permits for electrical and health and sanitation facilities, as applicable, shall be obtained.

**(d) *Horse drawn carriage rides, ice skating rink, carousel, and other related holiday, seasonal/temporary uses.***

1. The horse drawn carriage rides, ice skating rink, carousel, and other related holiday, seasonal/temporary uses must be sponsored by the City, Community Redevelopment Agency, the Downtown Development Authority, or other agency which is formulated for the purposes of economic development as

approved by the City Commission. The owner/operator of the horse drawn carriage rides must have a license agreement approved by the City Commission prior to commencing the use.

2. In addition to the holiday, seasonal, and temporary uses allowed, horse drawn carriage rides are also permitted for certain special events under the terms and for the times permitted in a license agreement. Horse drawn carriage special event rides not specifically authorized above, are only permitted between 6:00 p.m. and 10:00 p.m. from June 1 through November 1, except for weddings, which may also occur between the hours of 8:00 a.m. and 12:00 noon from June 1 through November 1.

(e) ***Temporary parking lots.***

1. A temporary parking lot may be permitted within the following areas:
  - a. The portion of the Central Business District (CBD) and Community Facilities (CF) District which is bounded by Swinton Avenue on the west, the Intracoastal Waterway on the east, N.E. 2<sup>nd</sup> Street on the north, and S.E. 2<sup>nd</sup> Street on the south;
  - b. The portion of the CBD District which is bounded by N.E. 2<sup>nd</sup> Avenue on the west, the FEC Railway on the east, N.E. 2<sup>nd</sup> Street on the south, and N.E. 4<sup>th</sup> Street on the north;
  - c. The portion of the CBD located east of the Intracoastal Waterway;
  - d. The non-residential zoning districts bounded by Swinton Avenue on the east, I-95 on the west, N.W. 1<sup>st</sup> Street on the north, and S.W. 1<sup>st</sup> Street on the south.
2. Temporary parking lot spaces shall not be used to fulfill minimum off-street parking requirements for new development or redevelopment. Temporary lots may be used to supplement required parking.
3. Prior to issuance of the temporary use permit, the applicant shall submit a site plan which includes proposed grade elevations, landscaping and other information which addresses the regular maintenance of the parking surface and irrigation of the landscaped areas.
4. The City Engineer shall approve the grading plan for the parking lot. The site plan shall be reviewed and recommended for approval by the Parking Management Advisory Board prior to submission to the City Commission for consideration.
5. Permits for temporary parking lots shall be issued for a one-year period. Permits

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may be renewed annually to a maximum of three years upon review and positive recommendation by the Parking Management Advisory Board.

6. The temporary parking lot shall be monitored for compliance with the approved plan. Should the City Manager find that the operation of a lot is not in compliance or if the lot has an adverse effect on surrounding properties, and the applicant is unable or unwilling to rectify the problem the permit may be reviewed by the City Commission for possible revocation.
7. Within 30 days of expiration of the permit, all rock or gravel surfaces shall either be removed or covered with top soil. The site shall then be sodded or landscaped as determined acceptable by the Planning and Zoning Department.
8. A temporary parking lot shall be constructed to the following specifications:
  - a. The parking lot surface shall be brought to grade with a dust-free surface of one of the following materials over soil which has been compacted to 95 percent maximum density per AASHTO T-180:
  - b. Four inches of pearock, gravel or river rock; or
  - c. Six inches of mulch.
  - d. If the lot is not operated on a 100 percent valet basis, wheel stops shall be provided as a means to indicate individual spaces. The size of the parking spaces, maneuvering areas and aisle widths shall be subject to the standards of Section 4.6.9(D)(4). In addition, the parking lot shall meet the requirements of the "Florida Accessibility Code for Building Construction".
  - e. If the lot is operated on a 100 percent valet basis, then wheel stops shall be provided at the edge of the parking surface.
  - f. The lot shall meet the requirements of Section 4.6.9(D)(3) for access to the street system. Driveway aprons between the edge of pavement and the right-of-way line shall be constructed of asphalt or concrete.
  - g. The parking lot perimeter shall be buffered with a minimum three feet wide landscape strip, screened with a minimum two feet high hedge or four feet high opaque fence. Water for irrigation shall be available within 50 feet of all landscaped areas.
  - h. If the parking lot is to be utilized at night, the applicant shall provide on-site lighting for the parking lot in compliance with photometric requirements.



- i. Trees of four inches or greater diameter at four and one-half feet above the ground shall not be removed.

#### **Section 2.4.7, Amendments to the Land Development Regulations**

(A) ***Amendment to the Land Development Regulations.*** Amendments to the LDR may be initiated by the City Commission, City Administration, or by a member of the public.

(1) ***Board Recommendations.*** Members of the City Boards may request an amendment pursuant to the following procedures:

- (a) The DSMG may recommend LDR amendments to the City Administration for initiation.
- (b) City Boards may recommend LDR amendments via memo to the City Commission for consideration of initiation.

(2) ***Privately Initiated Amendments.*** Members of the public may request an amendment pursuant to the following procedures:

(a) **Sponsorship**

1. At least one member of the City Commission shall sponsor the proposed amendment at a public meeting for formal presentation of the request at a City Commission Workshop for consideration.
2. At the workshop meeting, at least three Commissioners must support the request. Applications for a privately initiated amendment shall only be accepted by the Development Services Department after consideration and support at a City Commission Workshop and must be submitted within 90 days of the City Commission Workshop where the amendment was sponsored.
3. Whenever the City Commission has denied a request for sponsorship for an amendment to the LDR, the City Commission shall not thereafter consider any further sponsorship for the same type of individually initiated amendment for a period of 36 months from the date of such action.
4. Requests shall not significantly deviate from the amendment considered by the City Commission at the Workshop by including additional unrelated amendments or development standards, proposing higher density or intensity, adding uses that were not discussed or understood to be part of the initial request, etc.

(b) ***Required information.*** The following information must be submitted for an amendment to the LDR:

1. A statement explaining the request, that includes a rationale for the requested amendment; and
  2. A draft of the proposed ordinance, submitted in both hardcopy and electronic format approved by the City that includes the appropriate whereas clauses and amendments, such as but not limited to text with deletions shown by strikethrough and additions shown by underline, graphics, maps, or other information; and
  3. An analysis of the amendment and its potential impacts or benefits, including supporting documentation such as exhibits, graphs, similar regulations from other municipalities, etc.
- (3) ***Procedure.*** An amendment to the LDR shall be processed through the following sequence:
- (a) If a proposed amendment would affect historic districts or properties, consideration before the Historic Preservation Board for recommendation to the Planning and Zoning Board.
  - (b) Consideration at a public hearing before the Planning and Zoning Board.
  - (c) Forwarding of a recommendation to the City Commission and consideration at first reading of the enacting ordinance.
  - (d) Public hearing before the City Commission and consideration at second reading.
- (4) ***Modification.*** The proposed amendment to the LDR may be revised by the Planning and Zoning Board, Historic Preservation Board. or the City Commission.
- (5) ***Findings.*** For any approval, the City Commission must make a finding that the text amendment is consistent with the Comprehensive Plan, and that the amendment furthers the implementation of an adopted neighborhood plan, if applicable.
- (6) ***Limitations of amendments.***
- (a) Except for City initiated amendments, whenever the City Commission has denied an application for an amendment to the LDR, the City Commission shall not thereafter consider any further application for the same type of individually initiated amendment for a period of 36 months from the date of such action.
  - (a) The time limit stated above may be waived by three affirmative votes of the City Commission when such action is found necessary to prevent injustice or to facilitate the proper development of the City.

- (b) The above limitation shall not apply to a petition that expires during processing or denied in a manner deemed as "without prejudice."

#### **Section 2.4.8, Subdivisions and Plats**

(A) **General.** A plat is required for the subdivision of any lot, tract or parcel of land; and for the dedication, layout, opening or construction of any street, storm sewer, sanitary sewer, water main, or other facility for public use or for the common use of building occupants. This Section applies to all lands within the incorporated area of the city except as specifically exempted in Chapter 5 of the Land Development Regulations. Subdivision of land within the city may be accomplished by either major subdivision (platting) or minor subdivision (boundary plat or lot split), as defined in Appendix A. Requirements for the subdivision of land are found in Chapter 5 of the Land Development Regulations and Chapter 177, Florida Statutes.

(B) **Major subdivision (platting).**

- (1) **General.** The major subdivision process, which generally involves the creation of more than three individual lots, shall involve both the Planning and Zoning Board and the City Commission. The City Commission shall be the final authority in the subdivision review process. The City Commission may approve or deny a plat.
- (2) **Required information.** The following information must be presented in a subdivision (platting) submittal:
  - (a) Standard Application Items
  - (b) Standard Plat Items
  - (c) Engineering Plans
  - (d) Receipted copies of applications for all permits required for water, sewer, drainage, and public street improvements which must be permitted by agencies other than the City.
  - (e) Preliminary cost estimates for the construction of public improvements.
- (3) **Procedure.** A major subdivision plat shall be processed through the following sequence:
  - (a) Receipt and certification of a complete application.
  - (b) Technical review.
  - (c) Receipt and acceptance of surety.

- (d) Consideration by the Planning and Zoning Board.
- (e) Consideration and determination by the City Commission.
- (f) Upon approval, the Mayor shall execute the plat on behalf of the City.
- (g) After execution by the City, the plat shall be recorded pursuant to procedures established by the City Clerk.

(4) ***Conditions.***

- (a) A major plat may receive a conditional certification by the Planning and Zoning Board but conditions shall apply only to items which cannot be immediately obtained from other agencies by the applicant. Otherwise, a final plat shall be in final form and ready for execution when forwarded to the City Commission.
- (b) A major plat shall not be approved subject to conditions.

- (5) ***Findings.*** The City Commission must make a finding that the Final Plat is consistent with the Performance Standards in Chapter 3.

(D) ***Minor subdivision (boundary plat, lot split).***

- (1) ***General.*** The platting of a minor subdivision shall involve only the City Commission. The City Commission shall be the final authority in this subdivision process. The City Commission may approve or deny the final plat.
- (2) ***Required information.*** The following information must be presented in a subdivision (platting) submittal:
  - (a) Standard Application Items
  - (b) Standard Plat Items
  - (c) Engineering Plans
  - (d) Receipted copies of applications for all permits required for water, sewer, drainage, and public street improvements which must be permitted by agencies other than the City.
  - (e) Preliminary cost estimates for the construction of public improvements.
- (3) ***Procedure.*** A minor subdivision plat shall be processed through the following sequence:
  - (a) Receipt and certification as complete;

- (b) Receipt and acceptance of surety;
  - (c) Consideration by the City Commission at which time the final plat may be approved or denied;
  - (d) Upon approval, the Mayor shall execute the plat on behalf of the City;
  - (e) After execution by the City, the plat shall be recorded pursuant to procedures as set forth by the City Clerk.
- (4) **Conditions.** A final plat for a minor subdivision shall not be approved subject to conditions.
- (5) **Findings.** No specific findings are necessary for the approval of a plat for a minor subdivision except that when it is a boundary plat for a single parcel which is to be developed pursuant to an approved site and development plan, a finding must be made by the City Commission that the plat is consistent with the findings made upon approval of the site and development plan.

(E) ***Vacation of recorded plats.***

- (1) **General.** A plat, or any part of, a plat may be vacated by the owner of the land at any time prior to the sale of any lot therein provided that the vacating is approved by the City Commission. When lots have been sold, a plat may be vacated only if all the property owners join in written execution of such in writing.
- (2) **Required information.** The following information must be submitted in order to vacate a recorded plat:
- (a) Proof of ownership pursuant to Article 2.4;
  - (b) A certified copy of the plat which is to be vacated;
  - (c) A petition, by letter, stating the action which is sought and the basis therefore;
  - (d) The legal instrument which is to effectuate the vacation.
- (3) **Procedures.** A request for vacation of a recorded plat shall be accomplished in the following manner:
- (a) Submission of required information received and certified as being complete;
  - (b) Review by the Planning and Zoning Board with respect to appropriateness of the proposed action and its implications on the public's rights in any of its public uses, improvements, streets, etc.;

- (c) Review of the proposed legal instrument which will affect the vacation with respect to form by the City Attorney;
  - (d) Consideration by the City Commission at which time the request may be approved or denied;
  - (e) Recording of the legal instrument pursuant to procedures established by the City Clerk.
- (4) **Conditions.** A vacation instrument may not be conditionally approved; however, the instrument may require the applicant to mitigate adverse impacts associated with the vacation.
- (5) **Findings.** Prior to approving a vacation of a recorded plat, the City Commission must find that the abandonment of any affected public interest which had been created by the plat or any public improvement which was to have been provided in implementation of the plat, but which would not now be required, shall not have a significantly adverse impact upon the City's ability to obtain, retain, or maintain public facilities or tests of concurrency.

#### **Section 2.4.9, Public Right of Way and Easement Abandonments**

- (A) **Applicability.** This section governs the abandonment of public rights-of-way and public easements. Public rights-of-way include, but are not limited to, streets and alleys. Public easements may include, but are not limited to, those for utilities, sidewalks, ingress and egress, and landscaping.
- (B) **Abandonment of rights-of-way.**
- (1) **General.** Public right-of-way may be abandoned (returned) to the fee description of adjacent property to the same degree in which it was originally obtained, i.e. property dedicated exclusively from a single parcel shall be returned to that parcel; property dedicated through subdivision shall be divided at the center line and returned equally to abutting parcels. Abandonment of right-of-way may be granted by a formal resolution enacted by the City Commission.
  - (2) **Effect of Abandonment.** Once abandoned, a right-of-way is returned to the fee description of abutting property to the same degree in which it was originally obtained, (i.e. property dedicated exclusively from a single parcel shall be returned to that parcel; property dedicated through subdivision shall be divided at the center line and returned equally to abutting parcels).
  - (3) **Required information.**

- (a) A standard application.
  - (b) A survey of the property which is to be abandoned with said survey showing all improvements (including utility locations) which are within or immediately adjacent to the property to be abandoned; and including adjacent property lines and identification of property owners and business located thereon.
  - (c) A mailing list that complies with Article 2.6.
- (4) **Procedure.** Upon receipt of the above information, the following procedures shall be followed under the direction of the Director:
- (a) Certification of application sufficiency.
  - (b) **Distribution of Application.** The Director shall distribute the application and survey to all utilities who have or may have facilities within, or adjacent to, the right-of-way or easement, and to appropriate City Departments for review by the Technical Advisory Committee.
  - (c) **Public Notice.** Notification shall be made pursuant to the requirements of Chapter 2.
  - (d) **Public Hearing.** Upon receipt of all review comments, the application with the recommendation of the City Engineer shall be forwarded for review at an advertised public hearing before the Planning and Zoning Board. The recommendation of the Planning and Zoning Board shall be forwarded to the City Commission.
  - (e) **Recordation.** If approved, the abandonment shall be approved by a resolution of the City Commission.-After adoption, the resolution shall be recorded in the public records of Palm Beach County. Where deemed necessary by the City Engineer, an abandonment shall be consummated through the filing of a boundary plat, or replat, of the property to be abandoned and the receiving properties.
- (5) **Conditions.** Conditions may be imposed upon an abandonment to:
- (a) Ensure timely consummation.
  - (b) Ensure compliance with required findings.
  - (c) Require enhancement of the right-of-way proposed for abandonment in order to accomplish certain objectives and policies of the Comprehensive Plan e.g., street beautification.
  - (d) Require replacement easements and/or relocation of existing utilities, as may be appropriate.

- (e) Cause reversion or voiding of the abandonment in the event of a failure to comply with other conditions.
- (6) **Findings.** Prior to granting an abandonment the City Commission must make the following findings:
  - (a) That there is not, nor will there be, a need for the use of the right-of-way for any public purpose.
  - (b) That the abandonment does not, nor will not, prevent access to a lot of record.
  - (c) That the abandonment will not result in detriment to the provision of access and/or of utility services to adjacent properties or the general area.

(C) ***Abandonment of public easements.***

- (1) **Rule.** A general utility easement dedicated to the City or to the Public may be abandoned. Abandonment of such easements may be granted by a formal resolution enacted by the City Commission.
- (2) **Effect of abandonment.** Once an easement is abandoned, its encumbrance upon private property is eliminated, and the public has no rights to use the land formerly within the easement for the purpose(s) granted.
- (3) **Required information.**
  - (a) A standard application form.
  - (b) A survey of the property within the easement which is to be abandoned with said survey showing all improvements (including utility locations) which are within or immediately adjacent to the easement.
  - (c) A copy of the original plat, or portion thereof, or a copy of the original instrument which created the easement.
- (4) **Procedure.** Upon receipt of the above information, the following procedures shall be followed under the direction of the City Engineer:
  - (a) Determination of application sufficiency.
  - (b) Distribution of the application and survey to all utilities who have or may have facilities within the easement or adjacent to it.
  - (c) Upon receipt of all review comments, the application with the recommendation of the City Engineer shall be forwarded to the City Commission for action.



- (d) If approved, the abandonment shall be consummated through the recordation of the enacting resolution.
- (5) **Conditions.** Conditions may be imposed upon an abandonment to:
  - (a) Ensure timely consummation.
  - (b) Require replacement easements and/or relocation of existing utilities, as may be appropriate.
- (6) **Findings.** Prior to granting an abandonment the City Commission must make a finding that the abandonment will not result in detriment for the provision of utility services to adjacent properties or the general area.

**Section 2.4.10, Site Plan Applications (Level 1, Level 2, Level 3, and Level 4) and Master Development Plans.**

**(A) Site Plan Applications**

(1) **General.** A site plan application is required for all exterior site or building improvements or modifications, and/or new construction associated with a multi-family residential, commercial or mixed-use development. Single family homes and duplexes, and associated site improvements, are approved through the building permit process with review by Planning and Zoning for compliance with Land Development Regulations.

- (a) **Level 1:** Level 1 Site Plan applications include improvements or modifications to existing development that do not increase building square footage and are generally limited to landscaping, hardscaping, elevations, materials, and colors.
  - (b) **Level 2:** Level 2 Site Plan applications include new construction, additions to an existing building, or the conversion of an existing single-family residence or duplex, that consists of no more than a gross total of five residential dwelling units for multi-family residential development or 15,000 gross square feet of mixed-use or non-residential development.
  - (c) **Level 3:** Level 3 Site Plan applications include new construction, additions to an existing building, or the conversion of an existing single-family residence or duplex, that consists of more than a gross total of five residential dwelling units for multi-family residential development or 15,000 gross square feet of mixed-use or non-residential development.
  - (d) **Level 4:** Level 4 Site Plan applications include concurrent requests that would otherwise be classified as a Level 2 or Level 3 Site Plan application but require final action by the City Commission for one or more of the following:
    - 1. Height or density increase.
    - 2. CBD Incentive Program.
    - 3. Conditional Use.
    - 4. In-lieu of Parking.
  - (e) **Cumulative Reviews.** Only one site plan application per development, regardless of the level, shall be submitted for review at a time. Review thresholds are cumulative and are subject to gross square footage amounts and/or number of units.
- (2) **Procedure.** The applicant must file a complete site plan application. The application shall be processed through the following sequence:

- (a) Receipt and certification as complete.
  - (b) Administrative review for technical compliance.
  - (c) Level 1 and Level 2 Site Plan applications may be administratively approved.
  - (d) Level 1 and Level 2 Site Plan applications associated with a Certificate of Appropriateness (COA), inclusive of any variances or waivers require action by the HPB.
  - (e) Level 1 and Level 2 Site Plan applications that are dependent upon relief require Board consideration, as follows:
    - 1. Certain waivers require action by SPRAB or the City Commission prior to final Staff approval.
    - 2. When a variance is associated with a Level 2 Site Plan application, the complete application requires action by the Planning and Zoning Board and shall include any other relief that does not require action by the City Commission.
  - (f) Level 3 Site Plan applications require final action by the Planning and Zoning Board or Historic Preservation Board.
  - (g) Level 4 Site Plan applications, not associated with a concurrent Conditional Use request, require review and recommendation by the Planning and Zoning Board or Historic Preservation prior to final action by the City Commission.
- (3) **Findings.** All site plan applications require compliance with the applicable regulations and review criteria and shall not be contrary to the intent of any other regulations or the Comprehensive Plan.
- (a) Formal findings are not required for Level 1 Site Plan applications.
  - (b) Level 2, Level 3, and Level 4 Site Plan applications require compliance with the findings in Chapter 3, Performance Standards.
  - (c) Landscape Plans, including modifications to existing landscaping, require a finding of consistency with Section 4.6.16, Landscape Regulations.
  - (d) Architectural Elevations, including modifications to existing elevations, require an overall determination of consistency with the objectives and standards of Section 4.6.18, Architectural Elevations and Aesthetics, and any adopted architectural design guidelines and standards, as applicable.

- (e) Site Plan applications that include a variance(s) are subject to the findings of Section 2.4.8(A).
- (f) Site Plan applications that include a waiver(s) are subject to the findings of 2.4.8(B).
- (4) **Conditions.** Conditions may be imposed by the Director, or designee, or the acting body pursuant to Article 2.2.
- (5) **Certification.** Following approval of a site plan, whether approved administratively or by a Board, the final approved plans shall be certified by the Director, or designee.

**(B) Master Development Plans**

- (1) **General.** A Master Development Plan (MDP) is a land-use plan focused on one or more parcels that identifies site access and general improvements and shall be the guide for any subsequent site plan, subdivision action, and/or certificate of appropriateness. A site plan shall be required for any phase or the entire area encompassed by a MDP. A MDP is required for properties within certain zoning districts or for phased projects.
- (2) **Procedure.** A MDP application shall be processed through the following sequence:
  - (a) Receipt and certification as complete.
  - (b) Administrative review for compliance.
  - (c) Consideration at a public meeting before the Planning and Zoning Board, or the Historic Preservation Board, as appropriate.
    - 1. A MDP for property not located within a designated historic district and not located on an individually listed property shall be approved by the Planning and Zoning Board.
    - 2. A MDP for property located within a designated historic district or on an individually listed property shall be approved by the Historic Preservation Board.
  - (d) Variances and waivers to the requirements of base district standards and supplemental district regulations, referred to herein, may be granted by the approving body concurrent with approval of the MDP without the requirement of a public hearing.
  - (e) Upon approval of a MDP, the approved MDP shall be stamped and certified by the Director. Subsequent to approval of a MDP. All further submissions for review and permits shall conform in every respect with the MDP except as it may be officially modified pursuant to Section 2.4.5(G).

- (f) Modifications or a change in use to an approved MDP require application and approval by the appropriate approving Board.
  - (3) **Conditions.** Conditions may be imposed by the appropriate Board for site plans pursuant to Article 2.2.
  - (4) **Findings.** In addition to provisions of Chapter 3, the approving body must make a finding that development of the property as represented by the MDP will be compatible and harmonious with adjacent and nearby properties and the City as a whole, so as not to cause substantial depreciation of property values.
- (C) **Murals.**
- (1) **General.** Murals may not be installed except as authorized by the City through the issuance of a "mural permit." A mural permit is a Board Order issued by the Public Art Advisory Board or Historic Preservation Board. If a mural is appealed and acted on by the City Commission, then the mural permit is in the form of a Resolution. The Board Order or the Resolution shall contain the date of approval and vote and include the mural as an attached exhibit.
  - (2) **Procedure.** Upon submission of a complete Mural application, the Public Art Advisory Board and/or Historic Preservation Board shall review and evaluate the mural application to determine conformity with Section 8.5.3, Murals, and any applicable sections of the Florida Building Code. The Board shall act on the mural application at the next available meeting.
  - (3) **Enforcement.** Enforcement of this section shall be by Title 3, Chapter 37, of the City's Code, or any other remedies as provided by law and as further stated herein.
    - (a) A mural permitted by the City prior to the adoption of this section shall remain valid, and the owner or artist is not required to re-apply for approval following the adoption of Ordinance No. 22-20 on August 11, 2020.
    - (b) In the event that a mural is installed without permit, the applicant will be charged three times the application fee.
    - (c) In the event of a violation of the terms of this section, the City may employ all penalties and remedies set forth in Title 3, Chapter 37, "Delray Beach Code Enforcement," and in addition, may rescind any mural permits at the property found to be in violation. This provision is supplemental to all other remedies and penalties provided by law. If a permittee fails to timely remove any mural on a property found to be in violation within 30 days of the decision being made final, the City may enter onto the property and remove any mural on the property, and may assess costs of such removal on the permittee.

**Section 2.4.11, Relief**

- (A) ***Variances.*** A variance is a departure from the dimensional or numeric requirements of these land development regulations where such variance will not be contrary to the public interest and where, owing to the existing conditions peculiar to the property and not the result of the actions of the landowner, a literal enforcement of the regulations would result in unnecessary and undue hardship.
- (1) ***General.*** A variance shall only be considered by the Board of Adjustment, the Planning and Zoning Board, or the Historic Preservation Board
- (2) ***Prohibited Variances.*** Boards do not have the authority to grant variances for the following:
- (a) Uses
  - (b) Architectural elevations
  - (c) Landscaping
  - (d) Signs and signage, except as authorized for historic properties in Section 4.6.7
  - (e) Density and height
  - (f) Comprehensive Plan requirements
- (3) ***Required information.*** The applicant must file an application for a variance with the Development Services Department that includes a petition setting forth the requirements, with reference to code section, for which the variance is sought along with the basis for the associated hardship.
- (4) ***Process.*** A request for a variance generally shall be processed in the following manner:
- (a) Receipt and certification as to completeness.
  - (b) Consideration at a public hearing before the Board of Adjustment, Historic Preservation Board or Planning and Zoning Board, as applicable.
  - (c) All actions are final unless an appeal is filed. Appeals to actions of the Board of Adjustment or the Planning and Zoning Board may be filed with the Circuit Court of Palm Beach County. Appeals to actions of the Historic Preservation Board may be filed with the City Commission.
- (5) ***Findings.*** The following findings must be made prior to approval of a variance:

- (a) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures, or buildings subject to the same zoning. Economic hardship shall not constitute a basis for the granting of a variance.
  - (b) That literal interpretation of the regulations would deprive the applicant of rights commonly enjoyed by other properties subject to the same zoning.
  - (c) That the special conditions and circumstances have not resulted from actions of the applicant.
  - (d) That granting the variance will not confer onto the applicant any special privilege that is denied to other lands, structures, and buildings under the same zoning. Neither the permitted, nor nonconforming use, of neighborhood lands, structures, or buildings under the same zoning shall be considered grounds for the issuance of a variance.
  - (e) That the reasons established in the variance petition justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.
  - (f) That the granting of the variance will be in harmony with the general purpose and intent of existing regulations, and will not be injurious to the neighborhood, or be otherwise detrimental to the public welfare.
- (6) ***Alternative findings of the Historic Preservation Board.*** The Board may be guided by the following to make findings in the granting of a variance with a Certificate of Appropriateness as an alternative to the criteria above:
- (a) That a variance is necessary to maintain the historic character of property and demonstrating that the granting of the variance would not be contrary to the public interest, safety, or welfare.
  - (b) That special conditions and circumstances exist, because of the historic setting, location, nature, or character of the land, structure, appurtenance, sign, or building involved, which are not applicable to other lands, structures, appurtenances, signs, or buildings in the same zoning district, which have not been designated as historic sites or a historic district nor listed on the Local Register of Historic Places.
  - (c) That literal interpretation of the provisions of existing ordinances would alter the historic character of the historic district, or historic site to such an extent that it would not be feasible to preserve the historic character of the historic district or historic site.

- (d) That the variance requested will not significantly diminish the historic character of a historic site or of a historic district.
- (e) That the requested variance is necessary to accommodate an appropriate adaptive reuse of a historic building, structure, or site.
- (7) **Conditions.** The reviewing Board may prescribe appropriate conditions and safeguards, in conformity with existing regulations, to provide mitigation of any adverse impacts associated with a required finding. Violations of such conditions or safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of existing ordinances and punishable under Section 1.4.4.
- (8) **Expiration of Variance approvals.**
  - (a) **Not Associated with a Concurrent Site Plan Approval.** Variances not associated with a concurrent site plan review shall become void 12 months following the date of the approval by the board unless a validly issued building permit has been issued and development has commenced as defined in this Chapter. Prior to the expiration of this period, the applicant may request from the board that acted upon the approval, in writing, a one-time six-month extension. Further extensions of time shall require a new application.
  - (b) **Associated with a Concurrent Site Plan Approval.** Variances approved with a concurrent site plan action shall become void upon the expiration of the associated site plan, as defined in this Chapter.
- (B) **Waivers.** A waiver involves the granting of partial or total relief from a specific development regulation.
  - (1) **General.** A waiver may be granted to the procedural and substantive provisions of these regulations. A waiver may be granted only for those substantive items within these regulations for which such provision is made. A waiver to substantive provisions may be granted only by the approving body with the final authority to approve or deny the related development application.
  - (2) **Special power to the City Commission.** The City Commission may grant a waiver to any provision of these regulations when there is no other avenue for relief available in these regulations. However, waivers shall not be considered from the following:
    - (a) The use of land or structures.
    - (b) A requirement for a public hearing or public notice that an item will be considered by a board.
    - (c) A regulation for which it is stated that there shall be no waiver and/or variance provided.



- (d) Within the CBD, that authority of the City Commission is further limited by the following restrictions:
1. ***Building Height Waivers.*** Waivers to increase the number of stories or maximum height of a building are not permitted.
  2. ***Front Setback Waivers.*** Waivers to decrease the minimum front setback depth are permitted if the reduction would not result in a streetscape that does not meet the minimum requirements of Section 4.4.13(E)(2).
  3. ***Sidewalk Width Waivers.*** Waivers to decrease the minimum sidewalk width are not permitted.
- (3) ***Required information.*** The applicant must file an application for a waiver with the Development Services Department that includes a formal letter of request that describes the regulation to be waived, with reference to section number, along with justification for granting the waiver.
- (4) ***Procedure.*** A request for a waiver shall be processed in the following manner:
- (a) Receipt and certification as to completeness.
  - (b) ***Generally.*** A request for waiver shall be considered and acted upon prior to consideration of an associated development application. If a waiver request is made after review by an advisory body has been completed, the waiver request must first be reviewed by that body prior to action by the approving body.
    1. ***Central Business District Waivers.*** For waiver requests to the requirements of the CBD zoning district, the PZB shall make formal recommendations to the City Commission regarding those waivers prior to final action.
    2. ***Waivers on Historic Properties or Sites.*** For waiver requests, including those to the requirements of the CBD zoning district, on property under the purview of the HPB, the HPB shall take final action.
  - (c) Consideration at a public hearing before the Site Plan Review and Appearance Board, Historic Preservation Board, Planning and Zoning Board, or City Commission, as applicable.
  - (d) All actions are final unless an appeal is filed. Appeals to actions of the Site Plan Review and Appearance Board, Historic Preservation Board, or the Planning and Zoning Board may be filed with the City Commission. All decisions by the City Commission are final.

- (5) **Findings.** Prior to granting a waiver, the granting body shall make findings that the granting of the waiver:
- (a) Shall not adversely affect the neighboring area;
  - (b) Shall not significantly diminish the provision of public facilities;
  - (c) Shall not create an unsafe situation; and,
  - (d) Does not result in the grant of a special privilege in that the same waiver would be granted under similar circumstances on other property for another applicant or owner.
  - (e) Within the CBD, the following additional findings apply:
    - 1. The waiver shall not result in an inferior pedestrian experience along a Primary Street, such as exposing parking garages or large expanses of blank walls.
    - 2. The waiver shall not allow the creation of significant incompatibilities with nearby buildings or uses of land.
    - 3. The waiver shall not erode the connectivity of the street and sidewalk network or negatively impact any adopted bicycle/ pedestrian master plan.
    - 4. The waiver shall not reduce the quality of civic open spaces provided under this code.
- (6) **Conditions.** Conditions may be imposed upon the granting of a waiver to the extent that they are directly related to mitigating any adverse effect which may be created by the waiver of a specific development regulation.
- (7) **Expiration of Waiver approvals.**
- (a) **Not Associated with a Concurrent Site Plan Approval.** Waivers not associated with a concurrent site plan review shall become void 12 months following the date of the approval by the board unless a validly issued building permit has been issued and development has commenced as defined in this Chapter. Prior to the expiration of this period, the applicant may request from the board that acted upon the approval, in writing, a one-time six-month extension. Further extensions of time shall require a new application.
  - (b) **Associated with a Concurrent Site Plan Approval.** Waivers approved with a concurrent site plan action shall become void upon the expiration of the associated site plan, as defined in this Chapter.

- (C) **Internal adjustments.** An adjustment involves the lessening, or a total waiver, of those development standards which affect the spatial relationship among improvements on the land.
- (1) **General.** An adjustment shall only be considered during the site and development plan review process and shall be only for requirements which do not pertain to, or affect, standards that apply to the perimeter of a proposed development. An adjustment may be granted by the body or board with authority to approve or deny the site and development plan.
  - (2) **Required information.** An applicant may request an internal adjustment. Upon a determination by the Director that an internal adjustment is the appropriate type of relief, the site plan application shall include a formal letter of request that describes the requirement and references the section the applicant is seeking relief from and the justification for granting the adjustment.
  - (3) **Procedure.**
    - (a) Receipt and certification as to completeness.
    - (b) A request for an internal adjustment may be considered concurrently with the development application with which it is associated. If a request is made after review by an advisory body has been completed, the waiver request must first be reviewed by that body prior to action by the approving body.
    - (c) Consideration at a public hearing before the Site Plan Review and Appearance Board, Historic Preservation Board, or Planning and Zoning Board, as applicable.
    - (d) All actions are final unless an appeal is filed. Appeals to actions of the Site Plan Review and Appearance Board, Historic Preservation Board, or the Planning and Zoning Board may be filed with the City Commission. All decisions by the City Commission are final.
  - (4) **Conditions.** Conditions may be applied only as they relate to ensuring that the situation under which the relief is sought does not, or will not, change.
  - (5) **Findings.** Concurrent with granting relief from a development standard or regulation, the granting body must find that such relief does not diminish the practical application of the affected regulation (requirement) and that by granting such relief a superior development product will result.
- (D) **Administrative relief.** Administrative relief is the method whereby relief is granted from development regulations by an administrative official or the Development Services Management Group (DSMG).

- (1) **General.** Administrative relief can be granted only for instances in which it is specifically allowed. The City Manager, Director, Building Official, City Engineer or DSMG, when specifically designated under applicable LDR sections, are the only administrative officials or body empowered to grant administrative relief.
  - (2) **Required information.** The applicant must file an application for administrative relief with the Development Services Department that includes formal letter of request must be submitted that identifies the affected regulation(s), with reference to the section number(s), and a justification for granting of the relief.
  - (3) **Procedure.**
    - (a) When Associated With A Site Plan Review: A request for relief shall be considered concurrently with the development application it is associated with and shall be acted upon by the Administrative Official or the DSMG prior to consideration of the site plan.
    - (b) When Not Associated With A Site Plan Review: A request for relief shall be considered on its own merit pursuant to administrative processing requirements.
    - (c) All actions are final unless an appeal is filed. Appeals to the actions of the City Manager may be filed with the City Commission. Appeals to the actions of the Director or City Engineer may be filed with the DSMG. Appeals to the decisions of the Building Official may be filed with the Board of Adjustment. Appeals to the actions by the DSMG may be filed with the City Commission. All decisions by the City Commission are final.
  - (4) **Conditions.** Conditions may only be applied to ensure that the situation under which the relief is requested does not change.
  - (5) **Findings.** Prior to granting administrative relief, the administrative official or body shall find:
    - (a) That the relief sought is consistent with the specific authorization provided for in these regulations;
    - (b) That the intent of the affected regulation is preserved;
    - (d) That the action will not be detrimental to the public health, safety, or welfare; and,
    - (e) The relief is consistent with the established character of the surrounding neighborhood.
- (E) **Requests for accommodation.**

- (1) **Purpose.** The purpose of this section is to implement a procedure for processing requests for reasonable accommodation to the City's Code of Ordinances, Land Development Regulations, Rules, Policies, and Procedures for persons with disabilities as provided by the federal Fair Housing Amendments Act (42 U.S.C. 3601, et. seq.) ("FHA") and Title II of the Americans with Disabilities Amendments Act (42 U.S.C. Section 12131, et. seq.) ("ADAA"). For purposes of this section, a "disabled" person is an individual that qualifies as disabled and/or handicapped under the FHA and/or ADA. Any person who is disabled (or qualifying entities) may request a reasonable accommodation with respect to the City's Land Development Regulations, Code of Ordinances, rules, policies, practices and/or procedures as provided by the FHA and the ADA pursuant to the procedures set out in this section.
- (2) **Notice to the public of availability of accommodation.** The City shall display a notice in the City's public notice bulletin board (and shall maintain copies available for review in the Development Services Department, the Building Department, and the City Clerk's Office), advising the public that disabled individuals (and qualifying entities) may request a reasonable accommodation as provided herein.
- (3) **Application.** A request by an Applicant for reasonable accommodation under this section shall be either oral or written. A written request may be submitted by completion of a reasonable accommodation request form, which is maintained by (and shall be submitted to) the Development Services Department. The reasonable accommodation form shall contain such questions and requests for information as are necessary for processing the reasonable accommodation request. The reasonable accommodation request form shall be substantially in the form set forth in Subsection 2.4.8(G)(8), below.
  - (a) **Confidential information.** Should the information provided by the disabled individual to the City include medical information or records, including records indicating the medical condition, diagnosis or medical history of the disabled individual, such individual may, at the time of submitting such medical information, request that the City, to the extent allowed by law, treat such medical information as confidential information of the disabled individual. The City shall thereafter endeavor to provide written notice to the disabled individual, and/or his or her representative, of any request received by the City for disclosure of the medical information or documentation which the disabled individual has previously requested be treated as confidential by the City. The City will cooperate with the disabled individual, to the extent allowed by law, in actions initiated by such individual to oppose the disclosure of such medical information or documentation, but the City shall have no obligation to initiate, prosecute or pursue any such action, or to incur any legal or other expenses (whether by retention of outside counsel or allocation of internal resources) in connection therewith, and may comply with any judicial order without prior notice to the disabled individual.
  - (b) **Fee.** There shall be no fee imposed by the City in connection with a request for reasonable accommodation under this section or an appeal of a determination on

such request to the City Council, and the City shall have no obligation to pay a requesting party's (or an appealing party's, as applicable) attorney's fees or costs in connection with the request, or an appeal.

- (c) ***City assistance.*** The City shall provide such assistance and accommodation as is required pursuant to FHA and ADA in connection with a disabled person's request for reasonable accommodation, including, without limitation, assistance with reading application questions, responding to questions, completing the form, filing an appeal, and appearing at a hearing, etc., to ensure the process is accessible.
- (4) ***Findings for reasonable accommodation.*** In determining whether the reasonable accommodation request shall be granted or denied, the requesting party shall be required to establish that they or the occupants of the housing for which this request is made are protected under the Fair Housing Act and/or the Americans With Disabilities Act by demonstrating that they or the residents of the proposed housing are people with disabilities, as defined in these LDR.
  - (a) The requesting party shall demonstrate that the proposed reasonable accommodations sought are reasonable and necessary to afford the subject individual(s) with disabilities an equal opportunity to use and enjoy the housing that is the subject of this request.
  - (b) A request for reasonable accommodation to permit more than ten unrelated individuals to occupy a community residence shall be granted only when the requesting party also meets the standards for community residences promulgated in Section 4.3.3 (1)(4) of these LDR.
  - (c) The foregoing shall be the basis for a written decision with findings of fact upon a reasonable accommodation request made by the City Manager or designee, or by a Special Magistrate in the event of an appeal.
- (5) ***Notice of proposed decision.*** The City Manager, or his or her designee, shall have the authority to consider and act on requests for reasonable accommodation. When a reasonable accommodation request form has been completed and submitted to the Development Services Department, it will be referred to the City Manager, or his or her designee, for review and consideration. The City Manager, or his or her designee, shall issue a written determination within 45 calendar days of the date of receipt of a completed application and may, in accordance with federal law, (1) grant the accommodation request, (2) grant a portion of the request and deny a portion of the request, and/or impose conditions upon the grant of the request, or (3) deny the request, in accordance with federal law. Any such denial shall be in writing and shall state the grounds therefore. All written determinations shall give notice of the right to appeal. The notice of determination shall be sent to the requesting party (i.e. the disabled individual or his or her representative) by certified mail, return receipt requested or hand delivery, receipt signed by the recipient. If reasonably necessary to reach a determination on the request for reasonable accommodation, the City Manager, or

his/her designee, may, prior to the end of said 45 calendar day period, request additional information from the requesting party, specifying in sufficient detail what information is required. The requesting party shall have 15 calendar days after the date of the request for additional information to provide the requested information. In the event a request for additional information is made, the 45 calendar day period to issue a written determination shall no longer be applicable, and the City Manager, or his or her designee, shall issue a written determination within 30 calendar days after receipt of the additional information. If the requesting party fails to provide the requested additional information within said 15 calendar day period, the City Manager, or his or her designee, shall issue a written notice advising that the requesting party had failed to timely submit the additional information and therefore the request for reasonable accommodation shall be deemed abandoned and/or withdrawn and no further action by the City with regard to said reasonable accommodation request shall be required.

- (6) ***Appeal.*** Within 30 calendar days after the City Manager's, or his or her designee's, determination on a reasonable accommodation request has been rendered and transmitted to the requesting party, which may be accomplished via hand delivery with signed confirmation of delivery, email with confirmation of delivery, certified mail, or overnight courier service with signature confirmation, the applicant may appeal the decision. All appeals shall contain a statement containing sufficient detail of the grounds providing the basis for the appeal. Appeals shall be filed with the City Manager and shall be to the Special Magistrate who shall, after public notice and a public hearing, render a determination as soon as reasonably practicable within 60 calendar days after the date on which the appeal was filed. An appeal from a decision of the Special Magistrate shall be handled exclusively in the Fifteenth Judicial Circuit Court in and for Palm Beach County, Florida, and such appeal shall be taken by filing a petition for writ of certiorari within 30 days from the date of filing of the written order with the City Clerk or designee.
- (7) ***Stay of enforcement.*** While an application for reasonable accommodation, or appeal of a determination of same, is pending before the City, the City will not enforce the subject zoning ordinance, rules, policies, and procedures against the Applicant.
- (8) ***Request form for reasonable accommodation.***
  - (a) ***Contents of reasonable accommodation request form.***
    - 1. Name and contact information of the Applicant;
    - 2. Information regarding property at which reasonable accommodation is requested, including the address and legal description of such location as well as ownership of the subject property;
    - 3. Describe the accommodation and the specific regulation(s) and/or procedure(s) from which accommodation is sought;

4. Reasons the accommodation may be necessary for the Applicant or the individuals with disabilities seeking the specific accommodation, and if relating to housing, why the requested reasonable accommodation is necessary to use and enjoy the housing;
  5. Describe qualifying disability or handicap;
  6. Other relevant information pertaining to the disability or property that may be needed by the City in order for it to be able to evaluate the request for reasonable accommodation;
  7. All certified recovery residences must provide proof of satisfactory, fire, safety, and health inspections as required by Section 397.487, Fla. Stats., as amended from time to time;
  8. Signature of applicant;
  9. If on-site supervisor or manager, provide the name and contact information (phone and email) for each;
  10. Date of application;
  11. Disclosure of ownership interests of property;
  12. Owner's consent for application.
- (b) ***Reasonable accommodation.*** An applicant who seeks a reasonable accommodation to house more than ten unrelated individuals in a community residence shall also complete and submit the form the City requires of all applicants to establish a community residence.
- (9) ***Expiration of approvals.*** Approvals of requests for reasonable accommodation shall expire within 180 days if not implemented.
- (10) ***Recertification.*** All reasonable accommodation requests approved by the City Manager or his or her designee and implemented by the Applicant pursuant to this Section, 2.4.11(G), "Requests for Accommodation", are valid for no more than one year and shall require annual recertification each year on or before April 1st. Failure to recertify annually shall result in the revocation of the approved reasonable accommodation. Recertification requests shall follow the same requirements as Section 2.4.7(G), "Requests for Accommodation", and review of recertification requests shall follow the same procedures as outlined in Subsection 2.4.8(G)(5), "Notice of Proposed Decision", with the same appellate opportunities afforded to the applicant as provided under Subsection 2.4.8(G)(6), "Appeal" except the recertification notice will be sent annually by regular mail or hand delivered.



- (a) To be recertified, a community residence for which a reasonable accommodation was granted to locate in Delray Beach must provide verifiable evidence that it is currently licensed or certified by the State of Florida to operate at its present location.
  - (b) A community residence for which a reasonable accommodation was granted to locate in Delray Beach that is not currently licensed or certified by the State of Florida to operate at its present location shall obtain licensure, certification or recertification from the designated state entity before the April 1 reasonable accommodation recertification deadline. Failure to obtain state certification or a required state license, or failure to maintain state certification or a required state license, shall result in revocation of the reasonable accommodation and cessation of operations within 60 days of termination of the license or certification.
- (11) **Severability.** If any part, Section, Subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Section 2.4.8(G), "Requests for Accommodation", is declared unconstitutional by the final and valid judgment or decree of any court of competent jurisdiction, this declaration of unconstitutionality or invalidity shall not affect any other part, Section, Subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Section 2.4.8(G), "Requests for Accommodation".

(F) ***In-Lieu of parking and public parking fee request.***

- (1) **General.** An in-lieu of parking or public parking fee request must be approved by City Commission with recommendations from the Parking Management Advisory Board and other Boards as deemed appropriate, prior to site plan consideration.
- (2) **Required information.** The following information must be submitted for an In-Lieu of Parking or Public Parking Fee request:
  - (a) Sketch Plan including current and proposed square footage.
  - (b) Scope of work (i.e. expansion of use, change of use, new construction, etc.).
  - (c) Application and appropriate fee.
  - (d) Current parking required and provided.
  - (e) Parking required and parking provided to facilitate proposal.
  - (f) For public parking fee requests: Adjacent rights-of-way and proposed parking to be constructed.
- (3) **Procedure.** The applicant must file an application for in-lieu of parking or public parking fee with the Development Services Department that includes the provision of

any additional information needed to support the required findings and shall be processed in the following manner:

- (a) Receipt and certification is complete.
  - (b) Request must comply with Sections 4.6.9(E)(3) or 4.6.9(E)(4).
  - (c) Consideration by Parking Management Advisory Board and other Boards as deemed appropriate.
  - (d) Consideration and action by City Commission.
- (4) **Conditions.** Conditions may be imposed pursuant to, but not limited to, Sections 4.6.9(E)(3) and/or 4.6.9(E)(4).
- (5) **Findings.** The City Commission finds that the request is consistent with the Land Development Regulations, City Comprehensive Plan, and all currently adopted City policies and/or studies. For In-lieu requests, an additional finding must be made that adequate public parking options are available. For Public Parking Fee requests, an additional finding must be made that adequate public parking will be available pursuant to the requirements of Section 4.6.9(E)(4).
- (6) **Expiration of approval.** In lieu, off-site parking agreements; in lieu of parking requests must be tied to a site plan so the approval is not indefinite. Any in lieu payments made will be returned to the applicant if the site plan expires.

**Section 2.4.12, Certificate of Appropriateness**

**(A) *Certificate of appropriateness for individually designated historic structures and all properties located within historic districts.***

- (1) **General.** A Certificate of Appropriateness shall be required for the following activities which occur on a designated historic site, designated historic interiors, or within designated historic districts:
  - (a) Any development application which is processed under these regulations for which action is required by the Site Plan Review and Appearance Board or the Board of Adjustment; and in such case, the Historic Preservation Board shall act in-lieu of such Board.
  - (b) Any building, structure, appurtenance, improvement, or landscape feature, which will be erected, altered, restored, renovated, excavated, relocated, or demolished and which regards any exterior architectural features (and interior architectural features in the case of designated historic interiors), landscape features, or site improvements, except for those items specifically exempted by a list promulgated by the Director.
  - (c) Any material change in existing walls, fences, sidewalks, hardscape features, and changes of color.
  - (d) A Certificate of Appropriateness is not required for general, occasional maintenance of any historic building, interior, structure, or site, or any building or structure within a historic district or in kind replacement of materials or colors. General, occasional maintenance shall include, but not be limited to lawn and landscaping care and minor repairs that restore or maintain the historic site or current character of the building or structure. General, occasional maintenance shall not include any of the activities described and defined in divisions (1)(a) through (1)(c) of this Section. A Certificate of Appropriateness will not be required for construction, reconstruction, restoration, renovation, or demolition for any interior alteration (except for designated historic interiors). General, occasional maintenance and repair shall also include any ordinary maintenance which does not require a building permit from the City.
- (2) **Required information.**
  - (a) **Application.** When an item goes before the Historic Preservation Board or is reviewed administratively and it is not associated with any land development application, the following information in the form of photographs or plans shall be provided, as applicable:
    1. Site plan and/or survey;

2. Building elevations, and/or architectural drawings, and/or artistic sketches or renderings;
  3. Landscaping plan;
  4. Floor plan(s);
  5. Samples of building materials and color chips;
  6. Engineering reports;
  7. Demolition Plans;
  8. Window and door schedule providing specifications, to include but not be limited to, window type, material, configuration, dimensions, and profile drawings;
  9. Photographs of all existing elevations of the subject property, labeled with cardinal direction and address;
  10. Other materials as may be requested by the Planning and Zoning Department or Historic Preservation Board.
  11. Standard COA application form, accompanied by payment of a processing fee per Chapter 2, must be provided.
- (b) ***Site Plan applications.*** Applications for site plan approval shall be submitted in accordance with Chapter 2 in conjunction with the applicable information required for a COA provided in (a), above.

(3) ***Procedure.***

- (a) ***Applications reviewed by the Historic Preservation Board.*** An application for a COA that requires Board approval, as provided in the COA approval matrix set forth in the Delray Beach Historic Preservation Design Guidelines, as amended from time to time, shall be scheduled for review and action at the next available meeting of the Historic Preservation Board, at which time an action of approval, denial, or approval of a modified application, continuance with direction, or denial may be taken. The Historic Preservation Board shall apply applicable ordinances, Delray Beach Historic Preservation Design Guidelines and the Secretary of the Interior's Standards for Rehabilitation.
- (b) ***Administratively-Reviewed Applications:*** An application for a COA that does not require approval by the Historic Preservation Board as provided in the COA approval matrix, as amended from time to time, set forth in the Delray Beach Historic Preservation Design Guidelines may be approved administratively in

accordance with applicable ordinances, Historic Preservation Design Guidelines, and the Secretary of the Interior's Standards for Rehabilitation.

(c) ***Expirations:***

1. Certificates of Appropriateness approvals associated with a Site Plan, Site Plan Modification and/or Conditional Use application shall follow the standard application procedures and timelines provided in Chapter 2 shall be determined as follows:
  2. New Certificates of Appropriateness approvals or any revision as defined by Section 4.5.1(E)(2) of an approved and established project shall be valid for a period of 24 months.
    - a. Any major revision, as defined by Section 4.5.1(E)(2), of an approved, yet unestablished Certificate of Appropriateness, shall be considered a new approval and have an additional 24-month approval period.
    - b. Any minor revision, as defined by Section 4.5.1(E)(2), of an approved, yet unestablished Certificate of Appropriateness shall be valid for the original Certificate of Appropriateness approval period.
- (4) ***Conditions.*** Conditions may be imposed pursuant to Section 2.4.4(C) and to ensure compliance with the Standards contained in Section 4.5.1.
- (5) ***Findings.*** Prior to approval, a finding must be made that any Certificate of Appropriateness which is to be approved is consistent with Historic Preservation purposes pursuant to Objective HPE 1.4 of the Historic Preservation Element of the adopted Comprehensive Plan and specifically with provisions of Section 4.5.1, the Delray Beach Historic Preservation Design Guidelines, and the Secretary of the Interior's Standards for Rehabilitation.

**Sec. 2.4.13, Procedures for obtaining building permits and approvals.**

The following procedures shall be followed in obtaining various permits and approvals as indicated by subsection headings.

- (A) **General.** The following items must be provided prior to the issuance of any permits under this Section.
- (1) **License prerequisite.** No permit for erection, construction, installation, or maintenance of any structure, or component thereof, shall be issued unless the person in control of the premises upon which the improvement is to be placed shall have first procured from the City of Delray Beach an occupational license to engage in the business associated with the permit. The fee for an occupational license will be collected and a temporary license issued in the event another agency, such as the Health Department, has not finished final approvals.
  - (2) **Permits issued to responsible party.** All permits must be issued to a duly licensed contractor, except that this shall not be construed to prevent an owner or lessee of property from erecting certain items as contained within these regulations on his own property.
  - (3) **Payment of fees.** No work which requires a permit shall be undertaken without its associated fee being paid. The fees shall be paid as a part of the permit application process. Where work is begun without a permit, the fees provided in Section 2.4.3(K) shall be tripled. The payment of such fee shall not relieve any persons from fully complying with the requirements of these regulations nor from any penalties which may be appropriate.
  - (4) **Reinspection requirements.** Permit fees include the cost of inspecting the work to be done under a permit; however, if additional inspection trips are required, an additional inspection fee shall be charged. For example, and not in limitation of the foregoing, reasons necessitating additional inspection fees include, but are not limited to the following:
    - (a) The work, or correction to previously inspected work, does not meet code requirements
    - (b) An incorrect address is on the application by action of the applicant
    - (c) The work, or correction to previously inspected work, is not ready for reinspection at the time specified in the application for inspection.
- (B) **Building permits.** A building permit is required for all items as set forth in the current Florida Building Code and Chapter 7 of these Land Development Regulations, as amended. A building permit shall be sought via application through the Development Services Department.

**(1) *Drawings and specifications.***

- (a) All drawings and specifications shall bear the appropriate seal of engineer or architect as required by State Statute Chapter 471 for engineers and State Statute Chapter 481 for architects and Chapter 553 for threshold buildings.
- (b) Green building certification documents, if required by Section 7.11.1.

**(2) *Plot diagram.***

- (a) Before a building permit shall be issued, the applicant must submit the following:
  - 1. Drawings to scale showing the location of the proposed building or structure and existing building or structure on the site or lot. Building permit applicants for developments having had either conditional use or site and development plan approval shall submit two copies of the approved site plan.
  - 2. A certified sketch prepared by a Florida registered land surveyor or a Florida registered engineer, showing the boundary line survey of said lot or site and existing building and/or structure, if any.

**(3) *Permits.***

- (a) Work to be done by either a general contractor, residential contractor or building contractor as appropriate, holding a current Florida State registration or certification and registered with the City of Delray Beach, Florida. Nothing hereby shall prohibit homeowners from doing this work in accordance with Section 7.1.1.

**(4) *Conditions of the permit.***

- (a) The Building Official shall act upon an application for a permit with plans as filed, or as amended, without unreasonable or unnecessary delay. A permit issued shall be construed to be a license to proceed with the work and shall not be construed as authority to violate, cancel, alter or set aside any of the provisions of this code, nor shall such issuance of a permit prevent the Building Official from thereafter requiring a correction of errors in plans or in construction, or violations of this code. Any permit issued shall become invalid (1) unless the work authorized shall have been commenced within six months after its issuance, or (2) if the work authorized by such permit is suspended or abandoned for a period of six months after the time the work is commenced.
- (b) One or more extensions of time, for periods not exceeding 90 days each, may be allowed in writing by the Chief Building Official, pursuant to LDR Section 2.4.4(F). However, only one extension shall be allowed for any permits issued for construction occurring in a single-family district as set forth in Subsection 4.4.3(A).

All construction shall be completed within 18 months of issuance of the building permit; unless evidence is presented that a shortage of materials or an Act of God has caused the delay in which case the owner/contractor may request an extension of time, from the Chief Building Official, not to exceed six months. In addition to the other penalties herein provided, failure to complete construction within the time allotted or any extension thereof shall result in a penalty equivalent to 100 percent of the original building permit fee, which shall be paid prior to the granting of a Certificate of Occupancy.

**(5) *Schedule of permit fees.***

- (a) On all buildings, structures, or alterations requiring a building permit, a fee for each building permit shall be paid as required at the time of filing application, in accordance with the schedule as established herein.
- (b) For new buildings, the value of construction for the purposes of calculating permit fees shall be established by the Building Division from recognized sources, such as the latest edition of the Means Cost Estimating Publications.
- (c) For additions, remodeling, or partial contracts, the Building Division will accept signed contracts between the owner and contractor as evidence of construction costs or in lieu thereof will determine costs using Means Cost Estimating Publications.
- (d) The permit fees to be charged shall be based upon the total cost of the work being performed, including equipment, labor, and material costs required to complete the work as illustrated by the permit drawings.

**(C) *Certificate of occupancy.*** A Certificate of Occupancy is required prior to the establishment of use on any site or occupancy of a structure. An occupancy permit shall be sought via application through the Building Division on the standard Department application.

- (1) Prior to issuance of an occupancy permit, the Chief Building Official shall certify that all conditions of approval affixed to an associated development approval and requirements of the current Florida Building Code, and Chapter 4 and Chapter 7 of the Land Development Regulations are met. A certificate of occupancy will not be issued for any building or structure or portion thereof which fails to meet all applicable development standards and zoning requirements.
- (2) A conditional Certificate of Occupancy may be issued when all conditions of development or permit approval are not met but the Chief Building Official has assurance, to his satisfaction, that they will be met and that occupancy will not present a danger to the public's health, safety, or general welfare. A failure to comply with conditions as imposed by the Chief Building Official shall be cause for vacation of use or the structure.



(D) *Site clearing permit.*

- (1) **Rule.** It shall be unlawful for any person, without first obtaining a permit, to clear real property of shrub vegetation.
- (2) **Required information.** An application form, and attendant fee, shall be completed and delivered to the Chief Building Official, or his designee. The application form shall be as promulgated by the Chief Building Official.
- (3) **Procedure.** Upon acceptance of the application, the Chief Building Official shall cause the site to be visited and a report made which provides the status of trees in excess of two inches in diameter at four and one-half feet above the ground. The report shall identify what measures must be taken with respect to tree protection and removal required by Section 4.6.19 and erosion control measures required by Section 4.6.17.
- (4) **Issuance of permit.** Upon acceptance of the report by the Chief Building Official, a permit shall be issued. The permit shall require compliance with the report, a copy of which shall be provided with the permit. The permit shall be valid for a period of 180 days.

(E) *Permit to construct in a flood hazard area.*

- (1) **Rule.** A permit to construct in a flood hazard area pursuant to Chapter 10 must be issued by the Chief Building Official.
- (2) **Required information.** An application for a permit to construct in a flood hazard area shall be made to the Chief Building Official on forms furnished by the Department.
  - (a) **General data.** Plans drawn to scale that contain the following data are required:
    1. Nature, location, boundary, and general elevations of the territory under consideration;
    2. Existing and proposed structures;
    3. Fill areas, storage areas, drainage facilities;
    4. The elevation, in relation to mean sea level, of the lowest floor (including basement) of all structures;
    5. Elevation, in relation to mean sea level, to which an nonresidential structure has been flood-proofed;
    6. Certification from a registered professional engineer, or architect, that the nonresidential flood-proofed structure meets the flood-proofing criteria in Chapter 10;

7. A description of the extent to which any water course will be altered or relocated as a result of the proposed development.
- (b) **Construction stage of development.** At appropriate stages of construction in a flood hazard area, the following information must be provided as a part of the flood permit requirements:
1. The floor elevation for flood-proofing certification after the lowest floor is complete, or in the instance where the structure is subject to the regulations applicable to Coastal High Hazard Area, after placement of the horizontal structure members of the lowest floor;
  2. The above elevation shall be prepared by, or under the direction of, a registered land surveyor or professional engineer and certified by same.
- (3) **Procedures.**
- (a) **Pre-construction.** The general data material may be provided as a part of a site plan and/or preliminary engineering plans which are submitted as a part of a site plan or plat submittal. However, a separate submission is required when not so associated. A separate submission shall be processed concurrent with review of the building permit application.
- (b) **Construction certification.** Upon placement of the lowest floor, or flood-proofing by whatever construction means, or upon placement of the horizontal structural members of the lowest floor, whichever is applicable, it shall be the duty of the permit holder to submit to the Chief Building Official a certification of the lowest floor, flood-proof elevation, or elevation of the lowest portion of the horizontal structural member of the lower floor, whichever is applicable, in relation to mean sea level. When flood-proofing is certified for a particular building, said certification shall be prepared by, or under, the direct supervision of a professional engineer and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The Chief Building Official shall review the floor elevation survey data submitted, and any discrepancies detected by said review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to correct deficiencies or to submit the survey shall be cause to issue a stop-work order.
- (F) **Approval of work in the public right-of-way or a public easement.**
- (1) **Rule.** A work permit shall be required for construction, excavation, or repair work in public rights-of-way or public easements, including bicycle paths and sidewalks and for work owned by the City or dedicated to the City. Such permits shall be required for:

## EXHIBIT B – Ordinance No. 31-23 - All Text Added

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- (a) Work which includes, but is not limited to, water and sewer systems, street paving, bridges, sidewalks, driveways, swales, curbs, median paving, overhead and underground structures and cable systems, or any other underground installation;
  - (b) And for routes for moving houses, buildings, or heavy equipment;
  - (c) And use of rights-of-way for purposes other than for which they were intended;
  - (d) Infrastructure improvements that are related to an approved plat, certified site plan, or building permit associated with an address do not require a separate work permit.
- (2) ***Required information.*** The following information is required when seeking a work permit:
- (a) An "application for work permit" promulgated by the City Engineer;
  - (b) Agreements, per standard format, that address liability and restoration;
  - (c) Two sets of plans depicting the proposed work;
  - (d) Processing fee.
- (3) ***Procedures.*** An application shall be delivered directly to the City Engineer who shall be responsible for its processing. The City Engineer is hereby authorized to approve, deny, or approve with conditions such an application.
- (4) ***Compliance requirements and conditions.***
- (a) The applicant must agree to inform the City Engineer of commencement of work, allowing sufficient time for establishing field control points and orders providing for Temporary Traffic Control.
  - (b) The applicant must agree to assume full responsibility for any injury to persons, and for any damage to property of existing facilities that may arise as a result of the work for which a permit is obtained.
  - (c) The applicant must agree to immediately restore all property which is disturbed or damaged in connection with the work for which the permit was issued; and further agree that if he fails to do so, the City may proceed to do so and all costs thereof, including a reasonable attorney's fee and court costs shall be borne by the applicant.
  - (d) Work under the permit shall be discontinued on Saturdays, Sundays, or legal holidays except in cases where the work must proceed in order to protect the public health, safety or welfare and for which permission must be first obtained from the City Engineer.

- (e) If the City Engineer determines that there is a likelihood of damage, he or she may require the applicant to post a bond or other equivalent security in an amount which shall be set by the City Engineer and in a form with surety and conditions approved by the City Attorney.
  - (f) The applicant must agree that if the City Engineer, or designee, determines that the work is being performed in a manner not in compliance with the City Standards for Construction, including but not limited to Temporary Traffic Control and National Pollutant Discharge Elimination System, such work must cease immediately and steps be taken to correct identified deficiencies before work may be permitted to continue.
- (5) ***Findings.*** Upon satisfaction of the above, the City Engineer shall issue a non-transferable work permit, which shall be void after 60 days from the date of issuance unless work has been started.

**ARTICLE 2.5      APPEALS**

- (A) **General.** An appeal is a request for a review and reversal of any action which, if not appealed, is final. An appeal may be made of an administrative interpretation, or a decision made by an administrative official or body, or acting body. The appeal of an administrative interpretation shall be made to the Board for which such power has been granted; an appeal of an administrative or acting Board's action shall be made to the City Commission. All such actions are appealable unless an appeal is expressly prohibited. Only the applicant and the City Commission may appeal a decision to the City Commission.
- (B) **Required information.** Except for an appeal initiated by the City Commission, an appeal must be made in writing, directed to the City Clerk, and must provide the following information:
- (1) The name of the appellant.
  - (2) Identification of the action being appealed.
  - (3) Identification of who took the action and when it was made.
  - (4) The basis of the appeal.
- (C) **Procedures.** The following procedures shall be adhered to in the processing of any appeal:
- (1) The appellant, except for the City Commission, shall submit a letter, accompanied by the appropriate fee, to the city clerk within fourteen calendar days of the decision or action being appealed.
  - (2) If the appeal is initiated by the City Commission, a motion to appeal the action shall be made at the Commission meeting at which the board's action is reported.
  - (3) Whenever an appeal is filed, the action being appealed shall be stayed i.e. the development application or appealed part thereof shall be considered neither approved or denied.
  - (4) The hearing shall be held no more than 60 days from date of the City Clerk's receipt of the request to appeal or, in the case of an appeal initiated by the City Commission, no more than 60 days after the meeting at which the decision to appeal was made, unless both the appellant and the City Commission or the appellant and the board hearing the appeal mutually agree to postpone the hearing.
  - (5) Upon the request of the appellant, the body hearing the appeal may grant a one-time postponement of the hearing upon a showing of good cause. All requests for postponement must be considered at the meeting prior to the scheduled appeal hearing. All postponement requests shall be submitted in writing to the city clerk at least ten

days prior to the meeting upon where the postponement request will be considered. In no case shall a postponement exceed 60 days.

- (6) The appeal hearing will be conducted as a new evidentiary hearing in accordance with the city's quasi-judicial procedures. The appellant may offer or submit additional evidence and testimony at the hearing. At the hearing, the subject of the appeal may be granted, granted with conditions, denied, or set for further consideration, except that no conditions may be placed on the grant of an appeal of an interpretation or application of regulations. Conditions may be placed on any other grant of appeal in the same manner as the development application may have been conditioned originally.

**(D) *Conditions.***

- (1) The granting of an appeal of an interpretation or application of regulations is not subject to conditions.
- (2) The granting of an appeal pertaining to a decision on a development application may be conditioned in the same manner as the development application may have been conditioned originally.

**(E) *Standard of review.***

- (1) The appeal of an administrative interpretation may be granted upon a finding that the administrative officer's interpretation was plainly erroneous or inconsistent with the City's ordinances and regulations.
- (2) The appeal of a decision made by an approving body shall be subject to de novo review and shall not be limited to the record from the previous hearing. The appellant may offer or submit additional evidence and testimony at the hearing.
- (3) The appeal of a board decision or other administrative decision, in accordance with quasi-judicial proceedings, will be based on the substantial competent evidence in the record and the application of the correct law.

- (F) *Stay of previous action.*** Whenever an appeal is filed, the action being appealed shall be stayed i.e. the development application or appealed part thereof shall be considered neither approved or denied.

## ARTICLE 2.6 NOTICE REQUIREMENTS

### Section 2.6.1, General

- (A) **Requirements.** The notice provisions in this article shall be required prior to all Board and City Commission hearings held pursuant to the Land Development Regulations, and are supplemental to any notice required by state law. Additional notice requirements may be applicable as provided in particular sections of these Land Development Regulations.
- (B) **Concurrent notice.** If two public hearings are required, then notice required by this Section shall be provided prior to the first public hearing. When it is necessary to provide a notice of a public hearing for multiple hearings before one or more bodies, said notice may be combined within a single notice.
- (C) **Costs.** All costs incurred by the city for advertising, providing notice and recording of any documents shall be paid by the applicant. A request by the applicant to continue a hearing shall require the applicant to incur re-notification and re-advertising costs.
- (D) **Required information.** Any notice for a public hearing shall, at a minimum, contain the following:
  - (1) Date, time and place of the public hearing
  - (2) Location of the property which is the subject of the hearing.
  - (3) Subject matter of the hearing. If an ordinance, the title of the ordinance.
  - (4) Identification of the location of information about the subject of the public hearing.
  - (5) The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.
- (E) The forms of notice and their application set forth in the Land Development Regulations are illustrated in the Table of Public Notice Requirements herein. Where there may be conflict between the Table and the text of the Land Development Regulations, the Director shall determine the notice required.

### Section 2.6.2. Forms of Notice.

- (A) Mailed notice.
  - (1) Unless otherwise provided by law, addresses for mailed notice required by this Chapter shall be obtained from the latest ad valorem tax records provided by the county property appraiser.

- (2) The notice shall be mailed at least 10 calendar days prior to the date of the board or City Commission hearing to all real property owners whose land will be affected and whose property lies within 500 feet of the perimeter of the property under consideration. The department as a courtesy may also mail notice to persons and organizations registered to receive such notice. Mailed notice for an application to abandon a right-of-way or easement shall be provided to all property owners within 100 feet of the right-of-way or easement at least 20 days prior to the public hearing.
- (3) Mail notice is the responsibility of the applicant.
  - (a). A list of such owners along with the mailing addresses shall be provided as a part of the development application and shall be accompanied by an affidavit stating that to the best of the applicant's knowledge, the list is complete and accurate. The list shall be accompanied by a map showing all property lying within 500 feet of the property under consideration, and mailing labels that would include the property owners name and mailing addresses.
  - (b). Staff will provide the applicant with the required notice one week prior to the mailing date.
  - (c). Prior to the date of the hearing, an affidavit shall be provided affirming that the notice was sent.

**(B) *Posted property notice.***

- (1) Posted notice signs shall be posted by the applicant in accordance with placard standards established by the city, Signs shall be posted on the property subject to consideration in a prominent location clearly visible from the street. Signs shall be posted at least 15 calendar days prior to the date of the board or Commission hearing. Signs shall be maintained by the applicant until such time as a final decision is made, and shall be removed by the applicant within five days of the decision.
- (2) Properties under consideration for a land use or zoning map change that involve more than 50 non-contiguous acres shall not be required to post signs when the application is initiated by the city.

**(C) *Published notice.*** Unless otherwise provided by statute, publication shall be by advertisement in the legal section of a newspaper published at least five days per week at least 10 business days prior to the public hearing. Examples of statutory publication requirements include, but are not limited to:

- (1) Advertisements for abandonment of platted rights-of-way or easements shall comply with the timing and content requirements of Sec. 177.101, F.S. as may be amended from time to time.



- (2) For voluntary annexations, the city shall provide newspaper notice complying with the timing and content requirements of Sec. 177.044, F.S. as may be amended from time to time.
- (3) For land use plan amendments and rezonings, the timing and content of published notice shall comply with Section 166.041, F.S. as may be amended from time to time.
- (D) ***Posting of Agenda Required.*** An agenda shall be established for every meeting of each Board and City Commission. The agenda shall be posted in the main lobby of the north wing of City Hall at least seven calendar days prior to the day of a regular meeting, and shall provide notice of any public hearing. The agenda for a special meeting shall be so posted at least 24 hours prior to the time of the special meeting. A board shall only consider items which have been duly placed upon a posted agenda with the exception of items which are deemed as an emergency and which are added to an agenda by a majority of the board members.
- (E) ***City Web Page.*** Notice of a public hearing shall be posted on the City's web page at least ten calendar days prior to the date of the scheduled hearing.

#### **Section 2.6.3, Courtesy notice and notice to external agencies**

- (A) ***General.*** Notice of receipt of a development application shall be made to affected and interested groups as identified in this Section. Notice shall be provided in sufficient time to allow for review and comment prior to action.
- (B) ***Neighborhood groups.*** The City shall maintain a list of neighborhood groups that Development Services will provide notice to for development applications that require action by the Planning and Zoning Board, the Site Plan Review and Appearance Board, or the Historic Preservation Board. A neighborhood group must provide the name and address of a contact person; identification of the group; the types of items it wishes to be notified of; and its geographic area of interest to the Neighborhood and Community Services Department. Development Services shall notify such groups of applicable development applications once such applications are set on a Board's agenda.
- (C) ***Utility Companies:*** Utility providers for gas, electricity, telephone, cable television, etc. shall be notified of the submission of a site development plan or plat.
- (D) ***Adjacent Units of Government:*** Whenever a development application involves land use review or implements a development proposed within the comprehensive plan and it is located within one-quarter mile of the boundary of an adjacent unit of government, notice shall be provided pursuant to that unit of government.
- (E) ***Florida Department of Transportation (FDOT):*** Whenever a site development plan involves property adjacent to a thoroughfare maintained by FDOT, FDOT shall be notified upon receipt of the development application and FDOT approval of any required

improvements or connections to the thoroughfare shall be required prior to approval of a plat or building permit when a plat is not required.

(F) ***Palm Beach County Traffic Division:***

- (1) Whenever a site development plan involves property adjacent to a thoroughfare maintained by Palm Beach County, its Traffic Division shall be notified upon receipt of the development application and its approval of any improvements or connections to the thoroughfare shall be required prior to approval of a plat or building permit when a plat is not required.
- (2) Required Traffic Studies shall be provided by the applicant to the County Traffic Division for review and comment prior to any consideration by the approving body of the associated development application.

(G) ***Lake Worth Drainage District (LWDD):*** Whenever a proposed project is adjacent to LWDD facilities, the LWDD shall be notified upon receipt of the development application for comments as to impact upon its facilities.

(H) ***City boards.*** City Boards shall be noticed as follows:

- (1) ***Downtown Development Authority.*** Notice of all development applications within its geographic limits.
- (2) ***Community Redevelopment Agency.*** Notice of all development applications within its geographic limits.
- (3) ***Historic Preservation Board.*** All development applications which involve property located within a Historic District or on a designated Historic Site and which are not acted upon by the Historic Preservation Board shall be referred to that Board in a timely manner so that a recommendation may be made prior to action by others on the application.

**EXHIBIT B – Ordinance No. 31-23 - All Text Added**

**Section 2.6.4, Required Notices**

(A) **Notice.** Public hearings shall be noticed pursuant to Table 2.4.6-A.

| <b>Table 2.4.6-A - Notice Requirements</b>   |   |                              |          |                       |              |                |                 |
|--|---|------------------------------|----------|-----------------------|--------------|----------------|-----------------|
| <b>Application Type</b>  | <b>Required Public Hearings</b>         | <b>Required Notification</b> |          |                       |              |                |                 |
|  |   | Mail (1)                     | Mail (2) | Web,<br>City Hall (3) | Legal Ad (4) | Display Ad (5) | Posted Sign (6) |
| Annexation, Voluntary<br>Note: mail notice shall be 10 days prior to second reading, to residents and owners in proposed annexation area | Planning and Zoning Board               | X                            |          | X                     | X            |                |                 |
|  | City Commission 1 <sup>st</sup> Reading |                              |          | X                     |              |                |                 |
|  | City Commission 2 <sup>nd</sup> Reading | X                            |          | X                     |              |                |                 |
| Land Use Map Amendment (Small-Scale)   | Planning and Zoning Board               | X                            | X        | X                     | X            |                |                 |
|  | City Commission 1 <sup>st</sup> Reading |                              |          | X                     |              |                |                 |
|  | City Commission 2 <sup>nd</sup> Reading | X                            | X        | X                     | X            |                |                 |
| Land Use Map Amendment (Large Scale)   | Planning and Zoning Board               | X                            |          | X                     | X            |                | X               |
|  | City Commission 1 <sup>st</sup> Reading | X                            |          | X                     |              | X              | X               |
|  | City Commission 2 <sup>nd</sup> Reading |                              |          | X                     |              | X              | X               |
| Comprehensive plan text amendments (excluding annual CIP update)   | Planning and Zoning Board               |                              |          | X                     | X            |                |                 |
|  | City Commission 1st Reading             |                              |          | X                     |              | X              |                 |
|  | City Commission 2 <sup>nd</sup> Reading |                              |          | X                     |              | X              |                 |
| LDR amendments to lists of permitted, prohibited, and conditional uses   | Planning and Zoning Board               |                              |          | X                     | X            |                |                 |
|  | City Commission 1st Reading             |                              |          | X                     |              | X              |                 |
|  | City Commission 2 <sup>nd</sup> Reading |                              |          | X                     |              | X              |                 |
| Land Development Regulations Amendments, other   | Planning and Zoning Board               |                              |          | X                     | X            |                |                 |
|  | City Commission 1st Reading             |                              |          | X                     |              |                |                 |
|  | City Commission 2 <sup>nd</sup> Reading |                              |          | X                     | X            |                |                 |
| Rezoning initiated by the City for fewer than 10 contiguous acres  | Planning and Zoning Board               | X                            | X        | X                     | X            |                |                 |
|  | City Commission 1st Reading             |                              |          | X                     |              |                |                 |

## EXHIBIT B – Ordinance No. 31-23 - All Text Added

| Table 2.4.6-A - Notice Requirements   |   |                       |          |                    |              |                |                 |
|---|---|-----------------------|----------|--------------------|--------------|----------------|-----------------|
|   |   | Required Notification |          |                    |              |                |                 |
| Application Type  | Required Public Hearings                | Mail (1)              | Mail (2) | Web, City Hall (3) | Legal Ad (4) | Display Ad (5) | Posted Sign (6) |
|   | City Commission 2 <sup>nd</sup> Reading | X                     | X        | X                  | X            |                |                 |
| Rezoning initiated by the City for 10 or more contiguous acres  | Planning and Zoning Board               | X                     |          | X                  |              | X              |                 |
|   | City Commission 1st Reading             | X                     |          | X                  |              | X              |                 |
|   | City Commission 2 <sup>nd</sup> Reading | X                     |          | X                  |              | X              |                 |
| Rezoning initiated by the property owner  | Planning and Zoning Board               | X                     |          | X                  | X            |                | X               |
|   | City Commission 1st Reading             |                       |          | X                  |              |                |                 |
|   | City Commission 2 <sup>nd</sup> Reading | X                     |          | X                  | X            |                | X               |
| Conditional use and conditional use modification  | Planning and Zoning Board               | X                     |          | X                  |              |                | X               |
|   | City Commission                         |                       |          |                    |              |                |                 |
| Abandonment of easements  | Planning and Zoning Board               |                       | X        | X                  | X            |                | X               |
|   | City Commission                         |                       | X        | X                  | X            |                | X               |
| Abandonment of rights-of-way  | Planning and Zoning Board               |                       | X        | X                  | X            |                | X               |
|   | City Commission                         |                       | X        | X                  | X            |                | X               |
| Variance  | Applicable Board                        | X                     |          | X                  |              |                | X               |
| Waivers (without site plan)   | Only when specified for City Commission | X                     |          |                    |              |                |                 |
| <p>“Advisory Board” means either the Planning and Zoning Board or the Historic Preservation Board, as applicable.</p> <ul style="list-style-type: none"> <li>• Notice requirements for appeals are specific to the type of application being appealed.</li> </ul> |   |                       |          |                    |              |                |                 |