

ORDINANCE NO. 02-19

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES BY AMENDING SECTION 4.3.4 "BASE DISTRICT DEVELOPMENT STANDARDS", BY AMENDING PARAGRAPH 4.3.4(J) "HEIGHT", TO AMEND THE BASIS FOR BUILDING HEIGHT MEASUREMENT; AMENDING SECTION 4.6.2 "DISTANCE BETWEEN RESIDENTIAL BUILDINGS" TO AMEND THE BASIS FOR BUILDING HEIGHT MEASUREMENT; AND AMENDING APPENDIX A "DEFINITIONS" OF THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES TO ADD DEFINITIONS FOR "BASE FLOOD ELEVATION", "FINISHED GRADE ELEVATION", AND "FREEBOARD", AND TO REMOVE THE DEFINITION OF "GRADE"; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Legislature of the State of Florida has, in Chapter 166 -- Municipalities, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Federal Emergency Management Agency (FEMA) has identified special flood hazard areas within the boundaries of the City of Delray Beach and such areas may be subject to periodic inundation, which may result in loss of life and property, health and safety, hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare; and

WHEREAS, Chapter 553, Florida Statutes, was adopted by the Florida Legislature to provide a mechanism for the uniform adoption, updating, amendment, interpretation and enforcement of a state building code, called the Florida Building Code; and

WHEREAS, the City of Delray Beach was accepted for participation in the National Flood Insurance Program (NFIP) on April 9, 1971; and

WHEREAS, the latest Flood Insurance Rate Maps (FIRM) for the City of Delray Beach were effective on October 5, 2017; and

WHEREAS, the Florida Building Code was amended by the Florida Legislature and effective on January 1, 2018, requiring an additional 12 inches above the minimum base flood elevation required by the FIRM and NFIP; and

WHEREAS, the City of Delray Beach City Commission has determined that it is in the public interest to adopt the proposed ordinance that are coordinated with FEMA, NFIP, and the Florida Building Code; and

WHEREAS, pursuant to Florida Statute 163.3174(4)(c), the Planning and Zoning Board, sitting as the Local Planning Agency (LPA), has determined that the amendments are consistent with and further the goals, objectives and policies of the Comprehensive Plan; and

WHEREAS, pursuant to LDR Section 1.1.6, the Planning and Zoning Board reviewed the proposed text amendment at a public hearing held on _____, and voted __ to __ to recommend approval of the ordinance; and

WHEREAS, the City Commission of the City of Delray Beach adopts the findings in the Planning and Zoning Staff Report; and

WHEREAS, the City Commission of the City of Delray Beach finds the Ordinance is consistent with the Comprehensive Plan.

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

Section 1. That the recitations set forth above are incorporated herein.

Section 2. That Section 4.3.4. “Base District Development Standards”, Subsection (J) “Height”, of the Code of Ordinances of the City of Delray Beach, Florida, be and the same, is hereby amended as follows:

- (1) ~~Defined.~~ The height of all structures within the City of Delray Beach shall be measured as the vertical distance from finished grade elevation to the highest finished roof surface of a flat roof or to the mean level between tie beams and ridge for gable, hip, or gambrel roofs, except as provided below. The maximum height is established set forth in the Development Standards Matrix is the maximum height for all structures within the respective zone district, except:

(a) as provided for in Subsection 4.3.4(J)(3) and (4); and

(b) for the CBD zoning district as provided for in Subsection 4.4.13(D)(1)(a). [Ord. No. 03-15 2/24/15] [Amd. Ord. 2-06 1/17/06]

- (2) ~~Basis for measurement.~~ The finished grade elevation, specifically for the measurement of building height, is defined as the highest point for the following site conditions:

(a) For buildings sites not located within a FEMA designated Special Flood Hazard Area (SFHA), the finished grade elevation shall be a minimum of 18 inches and a maximum of 30 inches (12 inches of freeboard) above adjoining one street, the grade is established from the mean elevation of the crown of the street along the lot frontage or ~~(b) For buildings adjoining~~

~~more than one street, the grade is established as the average of the mean elevation of the crowns of the adjoining streets for lots with multiple lot frontages.~~

~~(c) When applied to single family detached dwelling units, less than three stories, within residentially zoned districts, the grade is established as the mean elevation of the finished surface of the ground adjacent to the exterior walls of the building. Under no circumstance shall the grade be higher in elevation than the highest point of the unaltered dune or the crown of the street. [Amd. Ord. 43-91 6/11/91]~~

~~(d) Within the CBD zoning district, building height is also measured by stories. See [Section 4.4.13\(D\)\(1\)\(a\)](#). [Ord. No. 03-15 2/24/15]~~

~~(e) For buildings/sites located within FEMA designated SFHA Zone “VVE” on the adopted Flood Insurance Rate Maps (FIRM), as amended, the finished grade elevation is established as the higher of the following:~~

- ~~(i) The minimum required finished floor or base flood elevation, as published required by FEMA and the Florida Building Code, as amended, and allowing up to 12 inches addition for freeboard; or,~~
- ~~(ii) The average crest of the dune located within the property limits, measured from north to south on the subject site. Any portion of the structure between the minimum required base flood elevation and the point of the average crest of the dune shall not be included in the height measure of the buildings on the subject site.~~

Section 3. That Section 4.6.2. “Distance between Residential Buildings”, of the Code of Ordinances of the City of Delray Beach, Florida, be and the same, is hereby amended as follows:

- (A) **Purpose.** The purpose of this Section is to provide for adequate distance between structures to allow for light, air, and open space; and to provide for aesthetically pleasing design relationships among buildings which are constructed within a townhouse, apartment, or condominium residential development.
- (B) **Application.** The minimum horizontal distance(s) between any two residential buildings (referred to as Building A and Building B) shall vary according to the length and height of such buildings. Such minimum distances shall be the distance required under the following formula:

D =	$\frac{LA + LB + 2 (HA+HB)}{6}$
D =	Required Minimum Horizontal Distance
LA =	Effective Length of Building A: The effective length of Building A is the length of that portion of its wall, or walls, from which perpendicular lines drawn in a horizontal plane will intersect any wall of Building B. Where Building A has a curved or irregular surface, such surface shall be enclosed within an imaginary rectangle having its side nearest to Building B parallel with Building B, and all measurements shall be made from the imaginary rectangle.
LB =	Effective Length of Building B: The effective length of Building B is the length of that portion of its wall, or walls, from which perpendicular lines drawn in a horizontal plane will intersect any wall of Building A. Where Building B has a curved or irregular surface, such surface shall be enclosed within an imaginary rectangle having its side nearest to Building A parallel with Building A, and all measurements shall be made to the imaginary rectangle.
HA and HB = Building Heights of Building A and Building B: The heights of Building A and Building B, being as set forth in Section 4.3.4(J). the vertical distance from grade to the highest finished roof surface of a flat roof or to the mean level between eaves and ridge for gable, hip, or gambrel roofs, for each of the buildings, Where no grade has been established, the height of a building shall be measured from the mean elevation of the finished lot grade at the front of the building. Height as applied to a story implies the vertical distance from top to top of two successive finished floor surfaces, provided the distance is not greater than ten feet.	

Section 4. That Appendix A “Definitions”, of the Code of Ordinances of the City of Delray Beach, Florida, be and the same, is hereby amended as follows:

BASE FLOOD ELEVATION. The regulatory requirement for the elevation of structures as set forward by the adopted Flood Insurance Rate Maps (FIRM) created by the Federal Emergency Management Agency (FEMA).

~~GRADE. 1) For buildings adjoining one street, the mean elevation of the crown of the street along the lot frontage. 2) For buildings adjoining more than one street, the average of the mean elevation of the crown of the adjoining streets. 3) For buildings which are built with adherence to minimum setback requirements, the grade shall be determined as the average of the mean elevation of the street or streets which abut the parcel upon which the building is located. (4) For buildings located within Zone "VE" on the latest adopted Flood Insurance Rate Maps (FIRM), the grade is established as the higher of (i) the minimum required floor or base flood elevation as required by FEMA and the Florida Building Code, or, (ii) the average crest of the dune located within the property limits, measured north to south.~~

FINISHED GRADE ELEVATION. For the purposes of measuring building height, (1) for sites not located within a FEMA designated Special Flood Hazard Area (SFHA), a minimum of 18 inches and a maximum of 30 inches (12 inches of freeboard) above the mean elevation of the crown of the street along the lot frontage or the average of the mean elevation of the crowns of the streets-for lots with multiple lot frontages; or, (2) for sites located within FEMA designated SHFA, as amended, the higher of (a) the minimum required base flood elevation, as required by FEMA and the Florida Building Code, as amended, and allowing up to 12 inches addition for freeboard; or, (b) the average crest of the dune located within the property limits, measured from north to south on the subject site.

FREEBOARD: The allowance for additional height above the base flood elevation (as required by FEMA) or the minimum Florida Building Code requirements in the calculation of finished grade for the purpose of measuring building height.

Section 5. That should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part thereof other than the part declared to be invalid.

Section 6. That all ordinances or parts of ordinances in conflict herewith be, and the same are hereby repealed.

Section 7. Specific authority is hereby given to codify this Ordinance.

Section 8. That this Ordinance shall become effective immediately upon its passage on second and final reading.

PASSED AND ADOPTED in regular session on second and final reading on this _____ day of _____, 2019.

Shelly Petrolia, Mayor

ATTEST:

Katerri Johnson, City Clerk

First Reading _____

Second Reading _____

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY:

Lynn Gelin, City Attorney