

ORDINANCE NO. 25-21

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF DELRAY BEACH CODE OF ORDINANCES, BY AMENDING CHAPTER 1, "GENERAL PROVISIONS," ARTICLE 1.1, "ADOPTION OF CODE," SECTION 1.1.1, "REFERENCE," AND SECTION 1.1.6, "AMENDMENTS," AND BY AMENDING CHAPTER 2, "ADMINISTRATIVE PROVISIONS," ARTICLE 2.4, "GENERAL PROCEDURES," SECTION 2.4.5, "PROCEDURES FOR OBTAINING DEVELOPMENT APPROVALS," SUBSECTION 2.4.5(M), "AMENDMENT TO THE LAND DEVELOPMENT REGULATIONS," TO REQUIRE AT LEAST ONE MEMBER OF THE CITY COMMISSION SPONSOR A PRIVATELY-INITIATED AMENDMENT TO THE LAND DEVELOPMENT REGULATIONS PRIOR TO THE SUBMITTAL OF AN APPLICATION; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AUTHORITY TO CODIFY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, at its March 25, 2021, regular meeting, the City Commission of the City of Delray Beach ("the City") adopted Rules of Procedure which allow City Commission to hold workshops in order to discuss Commissioner sponsorship of privately-initiated changes (the Provision) to the City's Land Development Regulations ("the LDR"); and

WHEREAS, pursuant to the Rules of Procedure, the Provision would not become effective until the adoption of a text amendment to the LDR; and

WHEREAS, the City Commission deems it to be in the best interest of the City to adopt a text amendment to the LDR in order to make the Provision effective; and

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, pursuant to Florida Statutes 163.3174(4)(c), the Planning and Zoning Board for the City of Delray Beach, sitting as the Local Planning Agency, reviewed the proposed text amendment to the Land Development Regulations at a public hearing on June 21, 2021 and voted 6 to 0 to recommend that the proposed text amendments be approved, finding that the request and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations; and

WHEREAS, the City Commission 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. The recitations set forth above are incorporated herein.

Section 2. Chapter 1, “General Provisions,” Article 1.1, “Adoption of Code,” Section 1.1.1, “Reference,” of the Land Development Regulations of the City of Delray Beach, Florida, is hereby amended to read as follows:

Sec. 1.1.1. – Reference.

These regulations are part of the City of Delray Beach Code of Ordinances and shall be known as the Land Development Regulations (LDR) of the City of Delray Beach. ~~It is a part of the Code of Delray Beach.~~ As such, they regulations are subject to the Chapter 10, General Provisions, of the Code of Ordinances; Chapter 10.

Section 3. Chapter 1, “General Provisions,” Article 1.1, “Adoption of Code,” Section 1.1.6, “Amendments,” of the Land Development Regulations of the City of Delray Beach, Florida, is hereby amended to read as follows:

Sec. 1.1.6. – Amendments.

- (A) The text of these ~~Land Development Regulations~~ LDR may from time to time be amended, changed, supplemented, or repealed. No such action, however, shall be taken until a recommendation is obtained from the Planning and Zoning Board and until a public hearing has been held by the City Commission. Any such change shall be made by ordinance, pursuant to procedures found in LDR Section 2.4.5(M).
- (B) ~~Changes to the Zoning Map shall be made pursuant to Section 2.4.5(D).~~ Requests by a member of the public to amend the text, graphics, maps, or other information adopted as part of the LDR must be sponsored by at least one member of the City Commission prior to the submittal of an application to request the privately-initiated amendment. Privately-initiated amendments to the LDR shall be made pursuant to the provisions of Section 2.4.5(M).
- (C) Changes to the Zoning Map shall be made pursuant to the provisions of Section 2.4.5(D).

Section 4. Chapter 2, “Administrative Provisions,” Article 2.4, “General Procedures,” Section 2.4.5, “Procedures for obtaining development approvals,” Subsection 2.4.5(M), “Amendment to the Land Development Regulations,” of the Land Development Regulations of the City of Delray Beach, Florida, is hereby amended to read as follows:

(M) ***Amendment to the Land Development Regulations.***

- (1) ***Rule.*** Amendments to the ~~Land Development Regulations~~ LDR may be initiated by the City Commission, Planning and Zoning Board, ~~or City Administration,~~ or by a member of the public. ~~an individual.~~ ~~An individual~~ Members of the public may request an amendment pursuant to the following procedures:
 - (a) At least one member of the City Commission shall sponsor the amendment to the LDR at a City Commission Workshop in accordance with the adopted Rules and Procedures of the City Commission.
 - (b) Applications for a privately-initiated amendment shall only be accepted by the Development Services Department after consideration and sponsorship at a City Commission Workshop and must be submitted within 90 days of the City Commission Workshop where the amendment was sponsored.
 - (c) Requests shall not 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.
- (2) ***Required information.*** The following information must be submitted for an amendment to the LDR:
 - (a) Submission of an ~~application~~ ~~formal written request~~ which ~~references the subject LDR section and provides a rationale for the requested amendment;~~ and
 - (b) 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 including language to be amended;~~ and
 - (c) ~~By providing and~~ ~~An~~ analysis of the amendment and its potential impacts ~~or benefits, including supporting documentation such as exhibits, graphs, similar ordinances~~ regulations from other municipalities, etc.; and

- (d) Submission of the processing fee pursuant to LDR Section 2.4.3(K).
- (3) **Procedure.** An amendment to the LDRs shall be processed through the following sequence:
 - (a) Receipt and certification as complete;
 - (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 adoption or rejection at second reading.
- (4) **Conditions.** The proposed ~~language text, graphics, maps, or other information~~ for the amendment to the LDRs may be ~~altered~~ revised by the Planning and Zoning Board or the City Commission.
- (5) **Findings.** In addition to the provisions of Section 1.1.6(A), the City Commission must make a finding that the text amendment is consistent with the Comprehensive Plan.
- (6) **Limitations of amendments.** Except for City initiated amendments, whenever the City Commission has denied an application for an amendment to the LDR Land Development Regulations, the City Commission shall not thereafter consider any further application for the same type of individually initiated amendment for a period of 12 months from the date of such action.

~~The time limits stated above may be waived by three affirmative votes of the City Commission when such action is found and deemed necessary to prevent injustice or to facilitate the proper development of the City. Further, the above limitations shall not apply to a petition which expires during processing or denied in a manner deemed as "without prejudice".~~

- (a) The time limits stated above may be waived by three affirmative votes of the City Commission when such action is found and deemed 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 5. All ordinances or parts thereof or parts of the Code conflicting or inconsistent with the provisions of this ordinance are hereby repealed.

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

Section 7. Specific authority and direction is hereby given to the City Clerk to codify this Ordinance.

Section 8. This ordinance shall become effective upon approval at second reading. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective.

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

ATTEST:

Katerri Johnson, City Clerk

Shelly Petrolia, Mayor

First Reading _____

Second Reading _____

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney