

ORDINANCE NO. 30-24

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," AMENDING CHAPTER 2, "ADMINISTRATIVE PROVISIONS," AMENDING CHAPTER 3, "PERFORMANCE STANDARDS," AMENDING CHAPTER 4, "ZONING REGULATIONS;" AMENDING CHAPTER 5, "SUBDIVISION REGULATIONS," AMENDING CHAPTER 6, "INFRASTRUCTURE AND PUBLIC PROPERTY," AND AMENDING CHAPTER 7, "BUILDING REGULATIONS," TO UPDATE REFERENCES CONSISTENT WITH ORDINANCE NO. 31-23 AND TO CORRECT OTHER OUTDATED REFERENCES; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AUTHORITY TO CODIFY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Land Development Regulations ("LDR") of the City of Delray Beach ("City") Code of Ordinances provide authority for the City Commission to amend, change, supplement, or repeal the LDR from time to time; and

WHEREAS, the City adopted Ordinance No. 31-23 on October 17, 2023 updating development review procedures in Chapter 2, "Administrative Provisions"; and

WHEREAS, a subsequent amendment to the LDR is necessary to update references that are rendered inaccurate by Ordinance No. 31-23; and

WHEREAS, it is appropriate that other outdated references be concurrently updated for accuracy; and

WHEREAS, pursuant to Florida Statutes 163.3174(4), the Planning and Zoning Board for the City of Delray Beach, sitting as Local Planning Agency, considered this item at a public hearing on September 17, 2024, and voted \_\_ to \_\_ 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

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

Section 1. The recitations set forth above are incorporated herein.

Section 2. The City Commission of the City of Delray Beach finds the Ordinance is consistent with the Comprehensive Plan.

Section 3. Chapter 1, “General Provisions,” Article 1.1, “Adoption of Code,” Section 1.1.4. “Minimum Requirements,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

**Sec. 1.1.4. Minimum requirements.**

In their interpretation and application, ~~the provisions of these Land Development Regulations shall be held to be considered the minimum requirements adopted for the promotion of public appearance, comfort, convenience, general welfare, good order, health, morals, prosperity, and safety to support the health, safety, general and welfare of the City.~~ Whenever the requirements of these Land Development Regulations ~~are at variance with the requirements of~~ differ from any other lawfully adopted ordinances, regulations, or rules, the most restrictive ~~or that imposing the higher standards shall govern.~~

Section 4. 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 amended as follows:

**Sec. 1.1.6. Amendments.**

- (A) The text of the LDR may from time to time be amended, changed, supplemented, or repealed. Any such change shall be made by ordinance, pursuant to ~~procedures found in LDR Section 2.4.5(M)~~ Chapter 2.
- (B) 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 at a public meeting. Upon receipt of sponsorship, the request shall be presented at a City Commission workshop for consideration. At the workshop meeting, at least three Commissioners must support the request in order to submit an application for the privately initiated amendment. Privately initiated amendments to the LDR shall be made pursuant to ~~the provisions of Section 2.4.5(M)~~ Chapter 2.
- ~~(C) Changes to the Zoning Map shall be made pursuant to the provisions of Section 2.4.5(D).~~

Section 5. Chapter 1, “General provisions,” Article 1.2, “Effect on Existing Law and Previous Development Approvals,” Section 1.2.2, “Previous Development Application Approvals,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

### Sec. 1.2.2. Previous development application approvals.

Expiration of approvals, establishment of project, and requests for extensions are enforced pursuant to Chapter 2.

- ~~(A) **Established projects.** Any development project which has not yet been completed by October 1, 1990, but is determined to have been established under provisions of the previous regulations [173.868(A) and 173.849(A)] shall be allowed to continue to completion pursuant to that previous approval.~~
- ~~(B) **Projects not established.** Any development application which was approved, with or without conditions, but which was not established under provisions of the previous regulations [173.868(A) and 173.849(A)] shall be allowed to initiate and continue to completion pursuant to that previous approval within the time period allowed for establishment of the project. It shall not be necessary, as a condition to obtain a building permit, that a variance be obtained to achieve conformity with these Land Development Regulations.~~
- ~~(C) **Expiration and extensions of previously approved projects.**~~
- ~~(1) **Not under construction.** Any development application which was approved, with or without conditions, and which did not receive a building permit for construction of structures prior to the expiration of that approval shall become void at that time. In order to reestablish approval of the project, development application(s) must be submitted and processed as if the project were new.~~
  - ~~(2) **Under construction.** Any development project which commenced construction but did not become established upon the expiration of that approval shall be deemed void at that time unless a request for extension of approval had been granted prior to the expiration of the previous approval. [See Section 2.4.4(E) for procedures for seeking an extension of approval.] [See Section 1.3.1(C) for criteria re "actual construction"].~~
- ~~(D) **Compliance with new regulations.**~~
- ~~(1) Any development application which expired pursuant to Section 1.2.2(C)(1) shall, if resubmitted, fully comply with these Land Development Regulations.~~
  - ~~(2) Any development application which expires because an extension was not granted under Section 1.2.2(C)(2) shall, if resubmitted, fully comply with these Land Development Regulations.~~
  - ~~(3) Any development application which is granted an extension pursuant to Section 1.2.2(C)(2) may be required, as a condition of extension approval, to be modified in whole, or in part, to comply with the provisions of these Land Development Regulations.~~
  - ~~(4) Any development application which seeks an extension under Section 1.2.2(C)(2) shall not be approved if the resulting use of the land or structures will be in conflict with the Land Use Map of~~

~~the adopted Comprehensive Plan or with the allowable uses pursuant to the property's zoning designation.~~

Section 6. Chapter 1, “General provisions,” Article 1.3, “Nonconforming Uses, Lots, and Structures,” Section 1.3.1, “Purpose and Intent,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

**Sec. 1.3.1. Purpose and intent.**

(A) - (B) (These subsections shall remain in full force and effect as adopted.)

(C) To avoid undue hardship, nothing herein shall require a change in the plans, construction, or designated use of any structure on which actual construction has been carried on diligently for an approved project which may now contain a non-conformity. Actual construction shall include the placing of construction materials in permanent position and fastened in a permanent manner. Where demolition, excavation, or removal of an existing structure has been substantially started preparatory to rebuilding, such demolition, excavation, or removal shall be considered actual construction, provided the work is carried on diligently, and the development becomes established pursuant to ~~2.4.4(D)~~Chapter 2.

Section 7. Chapter 1, “General provisions,” Article 1.3, “Nonconforming Uses, Lots, and Structures,” Section 1.3.7, “Exterior Remodeling,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

**Sec. 1.3.7. Exterior remodeling.**

(A) Exterior modifications to a nonconforming structure or a structure containing a nonconforming use shall be approved only in compliance with ~~ALL~~ each of the following:

(1) - (3) (These subsections shall remain in full force and effect as adopted.)

(4) The modification is approved as follows:

- a. Single-family detached residence or duplex requires approval by the Chief Building Official or designee.
- b. Non-residential structure, mixed-use structure, or multifamily structure requires approval pursuant to ~~Article 2.4~~Chapter 2.
- c. Structures located within the historic districts or individually listed historic structures require approval by the Historic Preservation Board.

Section 8. Chapter 1, “General provisions,” Article 1.4, “Interpretation, Enforcement, and Penalties,” Section 1.4.1, “Interpretation of Land Development Regulations,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

**Sec. 1.4.1. Interpretation of Land Development Regulations.**

- (A) ***Building regulations.*** All questions of interpretation of Chapter 7, Building Regulations, ~~shall first be presented to the Chief Building Official. Such questions shall be presented to the Board of Adjustment only upon an appeal from the decision of the Chief Building Official~~ are subject to Chapter 2.
- (B) ***Development standards, private property.*** All questions of interpretation of ~~Article 4.6, Supplemental District Regulations; the application of development standards contained within individual zoning districts; the application of standards contained within overlay and environmental management districts, Article 4.5; requirements imposed under Section 4.3.3 for Special Uses; and Article 1.3, Nonconforming Uses, Lots, and Structures, shall first be presented to the Chief Building Official unless there is a specific delegation for the interpretation of application of the requirements elsewhere. Such questions shall be presented to the Board of Adjustment only upon an appeal from the decision of the Chief Building Official.~~ are subject to Chapter 2.
- (C) ***Uses.*** All questions of interpretation of the allowable or categorization or definition of uses shall first be presented to the Director. If the Director determines that a requested use is not allowed within a specific zoning district, a letter requesting a "determination of similarity of use" of a proposed use with permitted and conditional uses listed within a specific zoning district may be brought to the Planning and Zoning Board for said determination. ~~{See 4.3.2(C)}.~~
- (D) ***Infrastructure and public property.*** All questions of interpretation of Chapter 6, Infrastructure and Public Property shall ~~first be presented to the City Engineer. If the applicant desires review of the interpretation of the City Engineer, such questions shall be presented to the City Commission either as an appeal from the decision of the City Engineer or as a request for waiver when the item is associated with a development application.~~ are subject to Chapter 2.
- (E) ***Graphics.*** All graphics and drawings are supplemental to the text and in the event of a conflict the text shall govern.

Section 9. Chapter 1, “General provisions,” Article 1.4, “Interpretation, Enforcement, and Penalties,” Section 1.4.5, “Definitions,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

**Sec. 1.4.5. Definitions.**

~~For the purpose of these Land Development Regulations, the definitions as contained in Appendix "A" of these Land Development Regulations shall apply unless the context clearly indicates or requires a different meaning. Matters of interpretation of meaning fall within the purview of the Chief Building~~

~~Official~~ Development Services Director. Changes to the wording of definitions and/or the addition or deletion of definitions may be made by the City Commission upon adoption of a ~~Resolution~~ an ordinance after review and recommendation by the Planning and Zoning Board.

Section 10. Chapter 2, “Administrative Provisions,” Article 2.1, “Reviewing Officials and Authorities,” Section 2.1.2, “Review Authorities,” Subsection (B), “Development Services Management Group (DSMG),” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

(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) - (2) (These subsections shall remain in full force and effect as adopted.)

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

(a) ***Recommendations.***

1. The DSMG has the authority to review and recommend changes to local ordinances and policies.

2. Reduction in right-of-way width pursuant to LDR Section 5.3.1(A)(7).

(b) ***Actions.*** A majority vote of a quorum is required to pass any action. The DSMG has the authority to take action on the following items pursuant to the procedures and standards of the LDR:

1. Grant administrative relief limited to the following:

a. Modifications to the streetscape standards in Central Business District (CBD).

b. Deviations up to five percent, up to a maximum of one foot, from an already approved waiver during construction.

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 11. Chapter 2, “Administrative Provisions,” Article 2.1, “Reviewing Officials and Authorities,” Section 2.1.5, “The Planning and Zoning Board,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

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

(A) - (D) (These subsections shall remain in full force and effect as adopted.)

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

(1) - (4) (These subsections shall remain in full force and effect as adopted.)

(5) **Board Recommendations.** The Planning and Zoning 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.

(f) Reserved.

(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 Central Business District prior to the consideration of an associated site plan application.

(l) The use of Masonry Modern or Art Deco architectural style, pursuant to Section 4.4.13(F)(3)(e).

(6) (This subsection shall remain in full force and effect as adopted.)

~~(F)(E)~~ **Final Actions.** All final actions, except variances, may be appealed to the City Commission, pursuant to the procedures of Chapter 2. Final action on a variance request may seek review of such action in the Circuit Court of Palm Beach County.

Section 12. Chapter 2, “Administrative Provisions,” Article 2.1, “Reviewing Officials and Authorities,” Section 2.1.6, “The Site Plan Review and Appearance Board,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

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

(A) - (D) (These subsections shall remain in full force and effect as adopted.)

(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, except where authority is granted to the Historic Preservation Board:

(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 or decision 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 adopted Design Guidelines.
1. 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. Central Business District Architectural Design Guidelines.

(2) **Board Recommendations.** The SPRAB has the authority make a recommendation to the City Commission with respect to the following items, pursuant to the procedures and standards of the Land Development Regulations (LDR):

(a) The use of Masonry Modern or Art Deco architectural style, pursuant to Section 4.4.13(F)(3)(e).

(F) (This subsection shall remain in full force and effect as adopted.)

Section 13. Chapter 2, “Administrative Provisions,” Article 2.1, “Reviewing Officials and Authorities,” Section 2.1.9, “The Historic Preservation Board,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

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

(A) - (D) (These subsections shall be in full force and effect as adopted.)

(E) ***Duties, powers, and responsibilities.*** The following duties, powers, and responsibilities shall be carried out by the Historic Preservation Board:

(1) - (13) (These subsections shall be in full force and effect as adopted.)

(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, to the Land Use Map, and to other Elements that 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.
- (g) The installation of public art within a historic district or on any individually designated site listed on the Local Register of Historic Places.
- (h) The use of Masonry Modern or Art Deco architectural style, pursuant to Section 4.4.13(F)(3)(e).

~~(F)(E)~~ (This subsection shall be in full force and effect as adopted.)

Section 14. Chapter 2, “Administrative provisions,” Article 2.2, “General Procedures,” Section 2.2.4, “Certification of Actions Taken,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

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

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

(A) - (B) (These subsections shall remain in full force and effect as adopted).

**(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) - (E) (These subsections shall remain in full force and effect as adopted).

(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 Certificates 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)(G).
- (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 ~~P~~plats are final actions ~~which~~ that 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~~ approvals 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.

Section 15. Chapter 2, “Administrative Provisions,” Article 2.4, “Development Application Requirements,” Section 2.4.2, “Application Submittal Requirements,” Subsection (F), “Fees,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

**Sec. 2.4.2. Application Submittal Requirements.**

(F) **Fees.** Application fees shall accompany each application, unless exempted in Subsection ~~(E)(2)~~, below. Application fees are established and amended by resolution of the City Commission. Fees shall be charged in an amount to offset the costs incurred by the City 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 that~~ 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 501(c)(3) designation from the Internal Revenue Code.
2. Service organizations, as defined by the City's Special Event Policy, ~~which that~~ 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.
- (3) **Refunds.** Refunds or partial refunds may be issued at the discretion of the Director for an application withdrawn prior to Board review.

Section 16. Chapter 2, “Administrative provisions,” Article 2.4, “Development Application Requirements,” Section 2.4.6, “Regulation of Uses,” Subsection (C), “Zoning Certificate of Use,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

**Sec. 2.4.6. Regulation of Uses.**

(C) **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) Determination of sufficiency, followed by technical review of the complete application.
  - (b) The Director may approve, approve with conditions, or deny the application.
  - (c) ~~An a~~ Approval of a Zoning Certificate of Use by the Director is required prior to ~~application~~ for issuance of 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.

Section 17. Chapter 2, “Administrative Provisions,” Article 2.4, “Development Application Requirements,” Section 2.4.8, “Subdivisions and Plats,” of the Land Development Regulations of the City of Delray Beach, Florida is amended and renumbered as follows:

**Sec. 2.4.8. Subdivisions and Plats.**

(A) (This subsection shall remain in full force and effect as adopted.)

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

(1) - (3) (These subsections shall remain in full force and effect as adopted.)

(4) ***Conditions.***

(a) A major plat may receive a conditional certification by the Planning and Zoning Board but conditions shall apply only to items that 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 P~~ plat is consistent with the Performance Standards in Chapter 3.

~~(C)(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) - (5) (These subsections shall remain in full force and effect as adopted.)

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

(1) - (5) (These subsections shall remain in full force and effect as adopted.)

Section 18. Chapter 2, “Administrative provisions,” Article 2.4, “Development Application Requirements,” Section 2.4.10, “Site Plan Applications (Level 1, Level 2, Level 3, and Level 4) and Master Development Plans,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

**Sec. 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 reviewed for compliance with the Land Development Regulations (LDR) through the building permit approval process.
  - (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, architectural 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, consisting of no more than a total of five dwelling units for multi-family residential development or 15,000 gross square feet of mixed-use or nonresidential 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, consisting of more than a total of five dwelling units for multi-family residential development or 15,000 gross square feet of mixed-use or nonresidential development.
  - (d) **Level 4.** Level 4 Site Plan applications include requests that could otherwise be classified as a Level 1, Level 2, or Level 3 Site Plan application but have concurrent request requiring final action by the City Commission for one or more of the following:
    1. Increase of height or density as part of a City workforce housing or incentive program.
    2. Utilization of the Central Business District (CBD) Incentive Program.
    3. Approval of Conditional Use.
    4. ~~Granting of an~~ In-lieu of Parking Fee request.
    5. Approval of Waiver(s) not otherwise authorized to other approving bodies.
  - (e) **Cumulative Reviews.** Excluding Level 1 Site Plan applications, only one site plan application per development or property shall be submitted for review and action at a time. Review thresholds are cumulative and are subject to gross square footage amounts and/or number of units.

(2) **Procedure.**

(a) - (c) (These subsections shall remain in full force and effect as adopted.)

(d) **Board Review.** The following applications require board action:

1. ~~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.
2. Level 1 and Level 2 Site Plan applications that are dependent upon waiver relief require action by the SPRAB and/or the City Commission.
3. A Level 2 Site Plan application that is dependent upon a related variance requires action by the Planning and Zoning Board and shall include any other relief that does not require action by the City Commission.
4. Level 3 Site Plan applications require action by the Planning and Zoning Board or Historic Preservation Board.
5. Level 4 Site Plan applications require review and recommendation by the Planning and Zoning Board and/or Historic Preservation Board prior to action by the City Commission.

(3) - (6) (This subsection shall remain in full force and effect as adopted.)

(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 for 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) Determination of sufficiency, followed by technical review of the complete application.
- (b) 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.
- (c) Variances and waivers to the requirements of base district standards and supplemental district regulations may be granted by the approving body concurrent with approval of the MDP without the requirement of a separate public hearing.
- (d) 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 may be modified pursuant to ~~Section 2.4.5(G)~~ through application and review by the appropriate approving Board.
- (e) 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~~ the requirements 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.
- (5) **Certification.** Following any appealable period, approved Master Development Plans shall be certified by the Director.

(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 approval 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 determination is in the form of a Resolution. The Board Order or the Resolution shall contain the date of approval and vote and include an image of 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~~ first 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~~ approved 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~~approval, 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~~ approvals at the property found to be in violation. This provision is supplemental to all other remedies and penalties provided by law. If a ~~permittee~~ the holder of a mural approval fails to timely remove or remedy 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 19. Chapter 2, "Administrative Provisions," Article 2.4, "Development Application Requirements," Section 2.4.13, "Procedures for Obtaining Building Permits and Approvals," Subsection (A), "General," of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

**Section 2.4.13. - Procedures for obtaining building permits and approvals**

(A) **General.** The following items must be provided prior to the issuance of any permits under this Section.

(1)-(2) (These subsections shall remain in full force and effect as adopted.)

(3) **Payment of fees.** No work ~~which~~ that 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 building permit fees established and amended by resolution of the City Commission ~~provided in~~ and any associated development application fees required by Section 2.4.3(K) 2.4.2(F) 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) (This subsection shall remain in full force and effect as adopted.)

Section 20. Chapter 2, "Administrative Provisions," Article 2.6, "Notice Requirements," Section 2.6.2, "Forms of Notice," Subsection (A), "Mailed Notice," of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

### Sec. 2.6.2. Forms of Notice.

- (A) **Mailed notice.** 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, no more than six months from the date of mailing.
- (1) Notice shall be mailed at least ten 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.
  - (2) Notice for an application to abandon a right-of-way or easement shall be provided to all real property owners within 100 feet of the right-of-way or easement at least 20 days prior to the public hearing.
  - (3) Mailed 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~~ the required radius of the property under consideration, and mailing labels with the property owners' name and mailing addresses.
    - (b) Staff will provide the applicant with the form of the notice at least one week prior to the required mailing date.
    - (c) Prior to the date of the public hearing, an affidavit must be provided by the applicant affirming that the notice was mailed.

Section 21. Chapter 3, "Performance Standards," Article 3.1, "Required Findings for Land use and Land Development Applications," Section 3.1.1, "Required Findings," of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

#### Sec. 3.1.1. Required findings.

Prior to the approval of development applications, certain findings must be made in a form ~~which~~ that is a part of the official record. This may be achieved through information on the application, written materials submitted by the applicant, the staff report, or minutes. The following fFindings shall be made by the body ~~which~~ that has the authority to approve or deny the development application:-

- (A) **Land Use Map.** The resulting use of land or structures must be allowed in the zoning district within which the land is situated and said zoning must be consistent with the ~~applicable land use designation as shown on the Land Use Map~~ Land Use Map designation.

- (B) **Concurrency.** Concurrency, as defined by Objective NDC 3.1 of the Neighborhoods, Districts, and Corridors Element of the adopted Comprehensive Plan, must be met and a determination made that the public facility needs, including public schools, of the requested land use and/or development application will not exceed the ability of the City and The School District of Palm Beach County to fund and provide, or to require the provision of, needed capital improvements in order to maintain the Levels of Service Standards established in Table CIE-2, Level of Service Standards, of the Capital Improvements Element of the adopted Comprehensive Plan of the City of Delray Beach.
- (C) **Consistency.** A finding of overall consistency may be made even though if the action will be in conflicts with some individual performance standards contained within in Article 3.2, provided that the approving body specifically finds that the beneficial aspects of the proposed project (hence compliance with some standards) outweighs the negative impacts of identified points of conflict.
- (D) **Compliance with LDRs.** Whenever an item a development requirement is identified elsewhere in these Land Development Regulations (LDRs) in the LDR, it shall specifically be addressed by the body taking final action on a land development application/request pursuant to Chapter 2. Such items are found in Section 2.4.5 subject to any findings in Chapter 2, and in special regulation portions of individual zoning district regulations.

Section 22. Chapter 3, “Performance Standards,” Article 3.2, “Performance Standards,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

**Sec. 3.2.1. Basis for determining consistency.**

The performance standards set forth in this Article either reflect a policy from the adopted Comprehensive Plan or a principle of good planning practice. The applicable performance standards set forth in Article 3.2 the following sections as well as compliance with items specifically listed as and any applicable required findings in appropriate portions of Section 2.4.5 Chapter 2 shall be the basis upon which a finding of overall consistency is to be made pursuant to [Section 3.1.1(C)] is to be made. However, exclusion from this Article shall not be a basis for not allowing prohibiting consideration of other objectives and policies found in the adopted Comprehensive Plan in the making of a finding of overall consistency.

Section 23. Chapter 4, “Zoning regulations,” Article 4.3, “District Regulations, General Provisions,” Section 4.3.1, “Application of District Regulations,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

**Sec. 4.3.1. Application of district regulations.**

The regulations established by this Article shall be minimum regulations and shall apply uniformly to each class or type of structure or land, except as herein provided:

- (A) - (C) (These subsections shall remain in full force and effect as adopted.)

(D) No yard or lot existing at the time of the passage of this chapter shall be reduced in area or dimensions below the minimum requirements set forth herein. Lots or yards created after October 1, 1990 shall meet the minimum requirements established by this chapter unless the City Commission ~~declares at the time of approval of an associated development application~~ approves a waiver, finding that it is necessary and appropriate to create such a nonconformity.

~~(E)~~ ~~Notwithstanding the above, the~~ The City shall provide notice by mail of any such action before the City Commission. Notice shall be provided pursuant to ~~Section 2.4.2(B)(1)(n)~~ Chapter 2 to the owners of all property located within 500 feet of the perimeter of the property on which the action is being sought. The notice shall be mailed no later than ten calendar days prior to the meeting before the City Commission.

~~(E)~~ In no Single Family Residential District (R1), or Rural Residential District (RR) shall a lot contain more than one principal residential structure.

Section 24. Chapter 4, “Zoning regulations,” Article 4.3, “District Regulations, General Provisions,” Section 4.3.2, “Determining Use,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

**Sec. 4.3.2. Determining use.**

(A) (This subsection shall remain in full force and effect as adopted.)

(B) *Categories of use.* All uses shall be categorized pursuant to the following:

(1) - (2) (These subsections shall remain in full force and effect as adopted.)

(3) *Conditional use.* A use ~~which that~~ may not be appropriate generally, or without restriction, within a zoning district. The purpose of identifying such conditional uses and regulating them in a special manner is that they possess certain characteristics ~~which that~~ may make them incompatible with existing uses, contiguous zoning, permitted uses, or future uses. Through special conditions imposed through procedures set forth in ~~Section 2.4.5(E)~~ Chapter 2, the adverse impacts of such a use may be mitigated. The allowing of a conditional use is discretionary based upon analysis of the required findings.

(C) (These subsections shall remain in full force and effect as adopted.)

Section 25. Chapter 4, “Zoning regulations,” Article 4.3, “District Regulations, General Provisions,” Section 4.3.3, “Special Requirements for Specific Uses,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

### Sec. 4.3.3. Special requirements for specific uses.

By nature of characteristics unique to the following uses, such use may be established only in compliance with these special requirements. These requirements are in addition to those established elsewhere in these Regulations. Description of each use in this Section shall be of its common meaning or as pursuant to the Definitions Section of these Regulations.

(A) - (CC) (These subsections shall remain in full force and effect as adopted.)

(D) ***Urban agriculture.***

(1) - (3) (These subsections shall remain in full force and effect as adopted.)

(4) ***Site standards.***

(a) A site plan is required for all Urban Agriculture. Site plans shall be subject to ~~review by the Site Plan Review and Appearance Board or the Historic Preservation Board in accordance with LDR Section 2.4.5(F) "Site and Development and Master Development Plans) and LDR Section 2.4.5 (G) "Modification to Site and Development Plans"~~ the process in Chapter 2. The approving body shall make a finding that the site is compatible with respect to size and scale of the development in which they are located. All outdoor plantings for crop production shall be setback a minimum of 15 feet from the front property line and five feet from the side interior or rear property lines. Corner lots shall maintain a ten-foot side street setback. All plantings shall comply with the visibility at intersection requirements pursuant to LDR Section 4.6.14.

(b) (This subsection shall remain in full force and effect as adopted.)

(c) The Urban Agriculture site shall be served by a water supply sufficient to support the cultivation practices used on the site. The use of City water services for irrigation may be permitted in accordance with Chapter 52 of the City's Code of Ordinances upon written approval from the Director of the ~~Environmental Services~~ Utilities Department with the concurrence of the City Manager. The use of rain-capture systems is encouraged on the site.

(d) - (o) (These subsections shall remain in full force and effect as adopted.)

(DD) – (H) (These subsections shall remain in full force and effect as adopted.)

(HH) ***Public educational facilities of the School District of Palm Beach County.*** The following regulations apply. Relief from these requirements shall only be granted by the City Commission through the waiver process ~~{Section 2.4.7(B)}~~ in Chapter 2.

(1) - (5) (These subsections shall remain in full force and effect as adopted.)

(HHH) *Private schools and other similar education facilities.*

(1) - (2) (These subsections shall remain in full force and effect as adopted.)

(3) **Outdoor area.** There shall be a minimum area of 75 square feet of outdoor play area per student. The play area shall be located on the same lot as the principal use and shall not be located in the front yard setback. The play area shall be surrounded by a six-foot-high opaque fence or chain link fence with a six-foot-high hedge. Outdoor play areas shall meet the minimum setbacks in the PC zoning district per ~~LDR~~ Section 4.3.4(K). Relief from this requirement shall only be granted by the City Commission through the waiver process [~~Section 2.4.7(B)~~]in Chapter 2.

(4) - (6) (These subsections shall remain in full force and effect as adopted.)

(I) *Community residences application form and conditional use permit requirements.*

(1) **Application form.** A "Community Residence Zoning Application" form shall be required for all community residences with any number of occupants established beginning on the date on which this ordinance goes into effect, for any existing community residence with any number of occupants not licensed by the State of Florida that had not been granted a reasonable accommodation by the City of Delray Beach under the provisions of ~~Section 2.4.7(G)~~ that this ordinance amends Chapter 2, and for the recertification of any existing community residence with any number of occupants to which the City of Delray Beach granted a reasonable accommodation prior to the effective date on which this ordinance went into effect of Ordinance No. 25-17. The "Community Residence Zoning Application" form shall be obtained from and shall be returned to the Director of the Planning, Zoning, & Building Development Services Department or his/her designee prior to occupancy or construction of the proposed community residence to determine whether the proposed community residence is a permitted use or requires a conditional use permit, to determine the maximum number of occupants allowed under city code provisions that apply to all residential uses, to determine the minimum number of off-street parking spaces required, and to identify whether any further accommodation is needed in accord with ~~Section 2.4.7(G)~~2.4.11(E), "Requests for Accommodation" ~~of these LDRs~~.

(2) **Applicability.** Subsection 4.3.3 (I)(1) shall be applicable to all community residences with any number of residents while subsections 4.3.3(I)(3) through 4.3.3(I)(6) are applicable only to those community residences that require a conditional use permit and house more than three unrelated individuals.

(3) **Purpose of conditional use permit.** In conjunction with ~~Section 2.4.5(E)~~ of these LDRs, the requirements of Chapter 2, the purpose of this section is to provide narrowly-tailored standards for determining whether to make the reasonable accommodation of granting a conditional use permit to ensure that the community residences these LDRs require to obtain a conditional use permit will:

(a) - (c) (These subsections shall remain in full force and effect as adopted.)

(4) (These subsections shall remain in full force and effect as adopted.)

(5) ***Request for reasonable accommodation.*** To establish a community residence for more than ten individuals with disabilities, the applicant shall submit a Request for Reasonable Accommodation in accord with the procedures of Section ~~2.4.7(G)~~ 2.4.11(E) of these LDRs. In all cases the City Manager or designee shall make findings of fact in support of all determinations and shall render the decision in writing. The City Manager or designee may meet with and interview the applicant to ascertain or clarify information sufficiently to make the required findings. To grant a Reasonable Accommodation to allow more than ten occupants in a community residence, the City Manager or designee shall affirmatively find compliance with all of the following standards in addition to the general standards promulgated in Section ~~2.4.7(G)(4)~~ 2.4.11(E) of these LDRs:

(a) - (d) (These subsections shall remain in full force and effect as adopted.)

(6) ***Review; fee.*** A conditional use permit under this Section will be reviewed in accord with ~~Section 2.4.5(E)~~ Chapter 2, however the fee for consideration of a conditional use permit under this Section is \$300.00 as this type of conditional use is a form of reasonable accommodation and therefore the standard fees set for conditionals uses in Section 2.4.3(k)(1)(r) are not applicable.

(II) - (LLL) (These subsections shall remain in full force and effect as adopted.)

(LLLL) ***Medical, professional and business offices, and medical clinics.***

(1) (This subsection shall remain in full force and effect as adopted.)

(2) ***Appeal.*** An appeal from an administrative determination or board action, excluding the granting or denial of a variance, regarding Medical Offices shall be appealed to the City Commission. The applicant shall follow the procedures and requirements set forth in ~~Section 2.4.7(E)~~ Chapter 2. ~~In addition to the requirements listed in Section 2.4.7(E) the~~ The applicant shall also list the following:

(a) - (b) (These subsections shall remain in full force and effect as adopted.)

(M) - (R) (These subsections shall remain in full force and effect as adopted.)

(RR) ***Rooftop uses.***

(1) - (2) (These subsections shall remain in full force and effect as adopted.)



(3) **General design standards for rooftop uses and terraces.** All rooftop uses and terraces shall meet the following:

(a) - (g) (These subsections shall remain in full force and effect as adopted.)

(h) Relief to the general design standards for rooftop uses and terraces is subject to review and action by the City Commission through the waiver process per ~~Section 2.4.7(B)~~ Chapter 2.

(S) **Telecommunication towers and antennas.**

(1) (This subsection shall remain in full force and effect as adopted.)

(2) **Freestanding telecommunication towers.** Freestanding telecommunication towers are permitted as follows:

(a) – (e) (These subsections shall remain in full force and effect as adopted.)

(f) Required information. All applications for telecommunication towers shall contain the following information:

1. Standard application items ~~pursuant to 2.4.3(A)~~.

2. - 8. (These subsections shall remain in full force and effect as adopted.)

9. A line of sight analysis shall be required to assess the tower's visual impact on residential areas. Such analysis shall include a visual representation of the tower on the site, and an illustration of its impact when viewed from at least three specific points within a 1,000 foot radius of the proposed tower location. The exact location of the points to be included in the analysis shall be coordinated with ~~Planning and Zoning~~ Development Services Department staff.

(g) (This subsection shall remain in full force and effect as adopted.)

(h) Existing towers.

1. Notwithstanding the above provisions of this section, whip and panel type telecommunication antennas may be placed on existing towers with sufficient loading capacity after approval by the Chief Building Official. Any other type of antenna requires a modification of the conditional use approval. The loading capacity of a tower shall be certified by an engineer licensed to practice in the State of Florida.

2. Notwithstanding the provisions of this section, towers in existence as of May 6, 1997, may be replaced with a tower of equal or less visual impact upon approval by the

~~Planning and Zoning~~ Development Services Director, provided that the following criteria are met:

- a. The tower meets the minimum requirements of this section; or
- b. The tower received conditional use approval prior to May 6, 1997.

3. Replacement of existing towers ~~which~~ that do not meet the above specified criteria may be approved by the City Commission as a new conditional use.

(i) (This subsection shall remain in full force and effect as adopted.)

(3) ***Antennas not located on telecommunication towers.***

(a) - (b) (These subsections shall remain in full force and effect as adopted.)

(c) Stealth antennas:

1. May extend up to 20 feet above the highest point of the roof or structure. If a greater height is necessary, the antenna must be approved by the Site Plan Appearance and Review Board.
2. Requires approval by the Development Services Director ~~of Planning and Zoning~~ to ensure that the antenna is consistent with the definition of a stealth facility.

(d) (This subsection shall remain in full force and effect as adopted.)

(4) ***Co-Location.***

(a) In order to minimize adverse visual impacts associated with a proliferation of towers, co-location of communication antennas by more than one provider on existing or new telecommunication towers shall take precedence over the construction of new single use telecommunication towers. An application for a new tower that is greater than 64 feet in height shall not be approved unless it can be demonstrated by the applicant that there is a need for the new tower ~~which~~ that cannot be met by placing the antenna on an existing tower. Accordingly, the following requirements apply to each application for a new telecommunication tower that is greater than 64 feet in height.

1. - 2. (These subsections shall remain in full force and effect as adopted.)

3. An existing telecommunication tower that is determined to be inappropriate for sharing shall be assumed to be inappropriate for sharing the same types of facilities in the future. Such towers will not need to be evaluated in the future regarding sharing with the same

type of facility for which it has been determined to be inappropriate. The ~~Planning and Zoning~~ Development Services Department shall retain a list of such towers, and will provide a copy of the list to all potential applicants. The City may require additional sharing feasibility evaluations if warranted by changes in technology.

4. (This subsection shall remain in full force and effect as adopted.)
5. For any telecommunication tower approved for shared use, the owner of the tower shall send a written notice to all potential users of the new tower, informing them of the opportunity for co-location, and including information on the tower's location and load capacity. Copies of the notice letters shall be provided to the City at the time that the application is filed. The list of potential users shall be provided by the ~~Planning and Zoning~~ Development Services Department.

6. - 7. (These subsections shall remain in full force and effect as adopted.)

(5) (This subsection shall remain in full force and effect as adopted.)

(6) ***Review and approval process.***

(a) - (c) (These subsections shall remain in full force and effect as adopted.)

(d) ***Findings.*** All conditional uses must be approved pursuant to the provisions of ~~Section 2.4.5(E) Chapter 2~~. In addition to ~~the these general requirements of that section, the following finding must be made in connection with a conditional use approval for a new communication tower:~~

1. ~~That a finding must be made that~~ the visual impact of the communication tower has been minimized to the greatest extent possible through ~~careful~~ design, siting, and screening.

(7) ***Waivers.***

(a) The City Commission may waive the requirements of this section pursuant to the authority granted in ~~Section 2.4.7(B) Chapter 2~~. In addition to the requirements and standards specified in that section, the following findings ~~which that~~ are applicable to the nature of the waiver must be made:

1. - 3. (These subsections shall remain in full force and effect as adopted.)

(T) - (U) (These subsections shall remain in full force and effect as adopted).

(V) ***Uses involving alcoholic beverages:***

- (1) **Defined:** For this subsection, alcoholic beverage is defined as:  
~~\* Distilled~~ distilled spirits and all beverages containing one-half of one percent or more alcohol by volume.
- (2) **Prohibitions by frequency:** The sale of alcoholic beverages for on-site consumption shall be allowed as a principal use within standalone bars and as an accessory use in chartered private clubs and golf courses with the restriction that:
- (a) - (b) (These subsections shall remain in full force and effect as adopted.)
- (c) To be allowed to begin operating a business as a standalone bar, the following rules shall apply:
1. A written request to establish a standalone bar shall be submitted to the ~~Planning and Zoning~~ Development Services Department. Attached to the written request shall be a copy of a valid ~~4COP License~~ license to serve alcoholic beverages, evidence of an executed lease to operate the business at the proposed location and a copy of an approved site plan for a restaurant or bar use (hereinafter referred to as the submission). The submission shall be date and time stamped by the ~~Planning and Zoning~~ Development Services Department. The submission shall be valid for a period of six months.
  2. If locational requirements allow for a standalone bar to be established, a person or entity that has filed a submission as set forth above at the earliest time and date will be notified that the use may be established. If the stand alone bar use is not legally established pursuant to ~~LDR Section 2.4.4(D)~~ Chapter 2 within 60 days after notification, the person or entity who filed a submission next in time and date shall have an opportunity to establish a standalone bar use. That person or entity and subsequent persons or entities that have a submission on file must also comply with the 60-day establishment requirement. Persons or entities that fail to establish the stand alone bar use in accordance with ~~LDR Section 2.4.4(D)~~ Chapter 2 within the 60-day period shall not have any further priority to establish the stand alone bar use and the submission shall be deemed void unless no other persons or entities have filed a submission wherein a longer time to establish the use may be permitted upon request.
  3. If for any reason the City is unable to determine who was first in time or unable to determine if the use was legally established and operational within the time permitted, the Planning and Zoning Board shall review all valid submissions on file regardless of time or date of the submission or establishment of the use, based on the required findings of ~~LDR Section 2.4.5(E)~~ Chapter 2 and make a recommendation to the City Commission. The City Commission will then determine which standalone bar use is the most compatible with surrounding uses, based on the following:
    - a. Compliance with code requirements,

- b. site's physical appearance,
- c. location,
- d. consistency with the Comprehensive Plan, and
- e. capacity of infrastructure to accommodate the proposed use,
- f. whether the stand alone bar will have a deleterious effect on adjacent businesses.

The standalone bar use deemed most compatible will then have the right to establish a standalone bar use as a permitted use within 60 days of the decision of the City Commission.

4. - 5. (These subsections shall remain in full force and effect as adopted.)

(3) - (4) (These subsections shall remain in full force and effect as adopted.)

(VV) 24-Hour or Late Night Businesses:

(1) (This subsection shall remain in full force and effect as adopted.)

(2) **Requirements:** Unless otherwise specified, the following regulations shall apply to 24-Hour or late night businesses:

(a) (This subsection shall remain in full force and effect as adopted.)

(b) **Conditions:** In addition to complying with ~~Section 2.4.5(E)~~ Chapter 2 of the Land Development Regulations, all other applicable regulations, and with any conditions imposed through the conditional use process, the following conditions shall apply to all 24-Hour or late night businesses ~~which~~ that meet the requirements of subsection (2)(a):

1. - 2. (These subsections shall remain in full force and effect as adopted.)

(c) **Findings:** In addition to any findings required by ~~Section 2.4.5(E)~~ Chapter 2 of the Land Development Regulations, and any other required findings, the following specific findings shall be made in order for any 24-Hour or late night business to be approved for a conditional use:

1. - 3. (These subsections shall remain in full force and effect as adopted.)

(3) (This subsection shall remain in full force and effect as adopted.)

(W) ***Domestic animal services.*** Facilities providing domestic animal services shall obtain a permit issued by Palm Beach County Animal Care and Control Division prior to the establishment of the use and must comply with the following:

(1) - (6) (These subsections shall remain in full force and effect as adopted.)

(7) ***Overnight boarding.*** Only veterinary clinics, pet hotels, and animal shelters may offer overnight boarding services subject to the following:

(a) An on-site attendant shall be present at all times during boarding services.

(b) Pet hotels and animal shelters shall not be located within a mixed-use building with residential uses.

(c) ***Emergency Preparedness Plan.*** Facilities approved for and offering overnight boarding services shall provide an Emergency Preparedness Plan to ensure continued humane care conditions are provided for the animals and their attendants, in case of an emergency, power outage, natural disaster, or other similar event. The plan shall include the following:

1. Description of how the animals in the facility will be accommodated if the main power source is out for more than 12 hours.

2. An auxiliary power generator, either portable or permanent, is required, and shall be designed and equipped to power, at a minimum, the surgery and boarding rooms, for a period of not less than 24 hours.

a. Generators shall not be dependent on a municipal water supply for cooling purposes.

b. Both portable and permanent generators shall be tested on a quarterly basis and a test log shall be maintained for inspection by the City of Delray Beach, upon request.

3. A minimum of one attendant on-site must be able to operate the generators.

4. Veterinary clinics, pet hotels and animal shelters that provide overnight boarding services and were legally established prior to the adoption of Ordinance No. 17-21 shall provide the facility's emergency preparedness plan within two years of the effective date.

5. Businesses that do not provide an on-site or portable auxiliary generator may request relief through the waiver process pursuant to ~~Section 2.4.7(B)~~ Chapter 2.

(8) (This subsection shall remain in full force and effect as adopted.)

(X) - (ZZ) (These subsections shall remain in full force and effect as adopted).

(ZZZ) **Transient residential use:** The entire dwelling unit or any part thereof, ~~which~~ that is located in Single Family, Rural Residential, or Planned Residential Development Zoning Districts and is operated or used in such a way that any part of the dwelling unit turns over occupancy more often than three times in any one year shall be presumed to be a Transient Residential Use and therefore prohibited. An entire dwelling unit or any part thereof, ~~which~~ that is located in Low Density Residential (RL) or Medium Density Residential (RM) Zoning Districts and is operated or used in such a way that any part of the entire dwelling unit turns over occupancy more often than six times in any one year shall be presumed to be a Transient Residential Use and therefore prohibited.

(1) - (2) (These subsections shall remain in full force and effect as adopted.)

(3) **Reasonable accommodation.** Reasonable Accommodations from this section may be obtained pursuant to LDR Section ~~2.4.7(G)~~ 2.4.11(E).

(4) -(5) (These subsections shall remain in full force and effect as adopted.)

(ZZZZ) (This subsection shall remain in full force and effect as adopted).

Section 26. Chapter 4, “Zoning regulations,” Article 4.3, “District Regulations, General Provisions,” Section 4.3.4, “Base District Development Standards,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

**Sec. 4.3.4. Base district development standards.**

(A) - (I) (These subsections shall remain in full force and effect as adopted).

(J) **Height.**

(1) -(2) (These subsections shall remain in full force and effect as adopted.)

(3) **Exceptions to the zoning district height.** The height limitations for freestanding and architectural features, rooftop appurtenances, parapets, and certain building structures constructed or placed above the roof are established in Table 4.3.4(J)(3), Height Exceptions, or in the specific zoning district regulations. Table 4.3.4(J)(3) identifies the maximum height and roof area allowed for each type. For the purposes of regulating exceptions to the zoning district height, references to residential zoning districts include the R-1, RO and OSSHAD. References to non-residential zoning districts include all other zoning districts, excluding the CBD pursuant to Section 4.4.13.

(a)-(b) (These subsections shall remain in full force and effect as adopted.)

- (c) For detached single family and duplex residences not subject to review by the Historic Preservation Board, height exception requests "~~Subject to Action by the Approving Body~~" shall be reviewed by the ~~Site Plan Review and Appearance Board~~ Planning and Zoning Board for recommendation, with final approval by the City Commission.
- (d) Requests that exceed the maximum allowable height or maximum allowable roof area in Table 4.3.4(J)(3) require approval by the City Commission through the waiver process in ~~Section 2.4.7(B)~~ Chapter 2 with the additional findings of Sections 4.6.18(E) and 4.5.1(E), as applicable.

TABLE 4.3.4(J)(3) HEIGHT EXCEPTIONS ALLOWED		
Exception Type <sup>1</sup>	Maximum Height	Maximum Roof Area
Free-standing features in residential zoning districts	20% taller than the height of the building or 40 feet, whichever is less	-
Free-standing features in non-residential zoning [districts]	20% taller than the height of the building or 64 feet, whichever is less	
Rooftop appurtenances	4 feet	10%
Parapet or roof screening		-
Sloped parapet	4 feet in height, 3 feet projection beyond face of building, and 12 feet projection into the roof surface	50%
SUBJECT TO ACTION BY THE APPROVING BODY		
Exception Type <sup>1</sup>	Maximum Height	Maximum Roof Area
Architectural features in non-residential zoning districts	20% taller than the height of the building	-
Rooftop appurtenances in non-residential zoning districts	more than 4 feet and up to 10 feet	10%
Parapet (flat or sloped) or roof screening in non-residential zoning districts		-
Restroom facilities in nonresidential districts <sup>2</sup>	10 feet above the height of the building	10% per type or the minimum required by the Florida Building Code, whichever is greater, and a maximum of 20% in total for two or more types combined.
Stair tower <sup>2</sup>	8 feet	
Elevator and vestibule in nonresidential zoning districts <sup>2</sup>	Up to 10 feet in height	
<sup>1</sup> Refer to Appendix A for definitions		
<sup>2</sup> See Section 4.3.3(RR) for rooftop uses		



(4) ***Increases to height regulations.***

- (a) ***Prohibitions.*** There are no provisions ~~which that allow, nor is the Board of Adjustment empowered any approving body to grant,~~ an increase of height for any purpose in the following zone districts:

Single Family (R-1) Districts	Rural Residential (RR)
Agriculture (AG)	Mobile Home (MH)
Low Density Residential (RL)	Medium Density Residential (RM)
Planned Residential Development (PRD)	Residential Office (RO)
Neighborhood Commercial (NC)	Professional and Office District (POD)
Conservation District (CD)	Open Space (OS)

- (b) (This subsection shall remain in full force and effect as adopted.)

(K) (This subsection shall remain in full force and effect as adopted).

Section 27. Chapter 4, “Zoning Regulations,” Article 4.4, “Base Zoning District,” Section 4.4.13, “Central Business (CBD) District,” Subsection (D), “Configuration of Buildings,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

(D) ***Configuration of buildings.***

- (1) (This subsection shall remain in full force and effect as adopted.)

- (2) ***Dimensional requirements for CBD Sub-districts.*** Table 4.4.13(C) provides the dimensional requirements regarding lot size, building placement, building size, height, density, and civic open space for each CBD Sub-district. Figure 4.4.13-D-4 illustrates the dimensional requirements from the table.

- (a) Buildings shall be located in accordance with the minimum and maximum setbacks in Table 4.4.13(C).

1. - 2. (These subsections shall remain in full force and effect as adopted).

3. Buildings over two stories in height are subject to additional setback requirements in order to ensure architectural articulation and reduce the impact of taller building heights.

a. Front and rear setbacks above the third story are 20 feet minimum.

b. With approval from the PZB, SPRAB, or HPB, building entries, lobbies, and vertical circulation areas located above the second story may not be required to increase the

setback to 20 feet, if configured as tower elements determined to be consistent with the Delray Beach Architectural Design Guidelines.

- c. In the South Pairs Neighborhood Sub-district, rear setbacks above the second story are 20 feet minimum for buildings located either along SE 7<sup>th</sup> Avenue or the alley between SE 4<sup>th</sup> Avenue and SE 5<sup>th</sup> Avenue.

4. - 7. (These subsections shall remain in full force and effect as adopted).

- (b) (This subsection shall remain in full force and effect as adopted)

Section 28. Chapter 4, "Zoning regulations," Article 4.4, "Base Zoning District," Section 4.4.13, "Central Business (CBD) District," Subsection (F), "Architectural Standards," of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

- (F) **Architectural standards.** To ensure high quality architecture in the downtown area, the following architectural standards apply to all buildings in the Central Business District Sub-districts and in the OSSHAD with CBD Overlay. In addition to the standards in Section 4.6.18, the following standards apply in all CBD Sub-districts.

(1) - (2) (These subsections shall be in full force and effect as adopted.)

- (3) **Appropriate architectural styles.** The adopted "Delray Beach Central Business District Architectural Design Guidelines", as amended, identifies architectural styles as appropriate for downtown Delray Beach, based on historical precedent, climate, and building scale. Defining characteristics and character examples are provided for each of the styles as guidance.

- (a) **Permitted architectural styles.** One of the architectural styles shall be identified on permit application drawings and the building design shall reflect the defining characteristics outlined in the "Delray Beach Central Business District Architectural Design Guidelines" document.

- (b) Eclectic combinations or mixing of styles is not permitted; however, projects comprised of multiple buildings may use more than one style, provided each building uses one style (e.g. an Anglo-Caribbean building next to a Florida Vernacular building), and façade portions of long buildings may use different styles provided each portion uses one style.

- (c) **Other Architectural Styles.** Elevations introducing a new style may be utilized with City Commission approval, via recommendation by SPRAB or HPB, as applicable. City Commission approval is required prior to consideration of the site plan by SPRAB or HPB. Applicants shall provide the following:

1. A description including images of a documented and substantiated Florida vernacular architecture;

2. A written justification of the appropriateness of the style for downtown Delray Beach; and
  3. An explanation including graphics demonstrating how the building design follows the proposed style.
- (d) Eclectic combinations of architectural styles may be used for civic buildings or for additions or renovations to existing buildings with City Commission approval, via recommendation by the SPRAB or HPB, as applicable. Applicant shall provide a written justification of the appropriateness of the eclectic combination of styles for downtown Delray Beach.
- (e) The use of Masonry Modern or Art Deco architectural styles requires City Commission approval, via recommendation by PZB, SPRAB or HBP, as applicable. City Commission approval is required prior to consideration of the site plan by ~~SPRAB or HBP~~ the applicable body. Applicants shall provide an explanation, including graphics, demonstrating how the proposed building design implements the selected style.
- (f) Accessory structures such as enclosures used for the screening of mechanical and electrical equipment, loading and service areas, and/or dumpster and recycling areas shall be consistent with the architectural style of the principal building.
- (4) - (9) (These subsections shall be in full force and effect as adopted.)

Section 29. Chapter 4, “Zoning regulations,” Article 4.4, “Base Zoning District,” Section 4.4.13, “Central Business (CBD) District,” Subsection (I), “CBD Parking Standards,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

- (1)-(2) (These subsections shall remain in full force and effect as adopted.)
- (3) ***Location and Access to Off-Street Parking.*** Parking and service areas shall be accessed and located at the rear or side of the building(s) whenever possible.
- (a) ***Location.***
1. Parking is not permitted in front setbacks or in side setbacks facing streets, parks, or civic open spaces.
  2. On Primary Streets, all parking lots shall be located to the rear of buildings. The ~~SPRAB~~ body acting on the site plan can approve alternative locations where parking in the rear is inappropriate or impossible and may require special perimeter treatments to protect and improve the pedestrian experience along the street.

3. On Secondary Streets, parking lots may also be located on the side of buildings provided the parking is screened from view of the street by a streetwall (See Section 4.4.13(F)(7)) and landscaping ~~as set forth in~~ required by Section 4.6.16(H).

(b) (This subsection shall remain in full force and effect as adopted.)

(4) (This subsection shall remain in full force and effect as adopted.)

Section 30. Chapter 4, “Zoning regulations,” Article 4.5, “Overlay and Environmental Management Districts,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

The Districts described in this Article do not establish uses or categorize uses. These Districts, however, do regulate allowable uses in a manner to mitigate adverse impacts of such uses upon the natural or man-made environment; or regulate development so as to mitigate potential dangers to the use of such developed land, or to otherwise implement policies and objectives of the Comprehensive Plan. Overlay and environmental management districts need not be shown on the Official Zoning Map.

**Section 4.5.1. Historic Preservation: Designated Districts, Sites, and Buildings.**

(A) - (B) (These subsections shall remain in full force and effect as adopted.)

(C) ***Procedures for historic designation.***

(1) - (3) (These subsections shall remain in full force and effect as adopted.)

(4) A public hearing before the HPB shall be set, and notice of said hearing shall be made to the owner(s) of affected property at least ten days prior to the hearing by regular mail. Additional notice shall be given ~~in the same manner as provided for a rezoning action [see Section 2.4.2(B)(1)(b)] and by notice published in the newspaper at least ten days prior to the hearing,~~ provided, however, posting pursuant to 2.4.2(B)(1)(b) is not required pursuant to Chapter 2.

(5) - (6) (These subsections shall remain in full force and effect as adopted.)

(D) ***Development review and approval procedures.*** Pursuant to ~~Section 2.4.6(H)~~ Chapter 2, approval of a Certificate of Appropriateness (COA) must be obtained from the Historic Preservation Board prior to the exterior improvement of any property, building, or structure located within a Historic District or Individually Designated Site, as listed on the Local Register of Historic Places in Section 4.5.1(I), The COA process may occur concurrently with the processing of any additional reviews required for any such improvement of development.

(E) ***Development standards.*** All new development or exterior improvements on individually designated historic properties and/or properties located within historic districts shall, comply with the goals,

objectives, and policies of the Comprehensive Plan, the Delray Beach Historic Preservation Design Guidelines, the Secretary of the Interior's Standards for Rehabilitation, and the Development Standards of this Section. Relief from Subsections (1) through (9) below may be granted by seeking a waiver approvable by the Historic Preservation Board, unless otherwise stated.

(1) - (5) (These subsections shall remain in full force and effect as adopted.)

(6) ***Relocation.***

(a) ***Relocation of a structures in a historic district or on an individually designated site.*** Relocation of a contributing or non-contributing building or structure or an individually designated building or structure to another site shall not take place unless it is shown that preservation on their existing or original site would cause undue economic hardship to the property owner in accordance with definition and requirements of undue economic hardship found in Section 4.5.1(H) or a building permit has been issued.

(b) ***Relocation of contributing or individually designated structures.***

1. - 5. (These subsections shall remain in full force and effect as adopted.)

6. ***Successful or unsuccessful relocation.*** The relocation of a historic structure is deemed successful when either no damage occurs during or as a result of the relocation or minimal damage occurs ~~which~~ that is not deemed to compromise the integrity (structurally and architecturally) of the structure, and when the relocation is completed in accordance with the approved Certificate of Appropriateness, including the associated Relocation Plan.

a. If damage occurs during the relocation, then the property owner, applicant and/or Licensed Building Mover shall notify the Historic Preservation Planner and Chief Building Official within 24 hours of completion of the move to determine if the damage has compromised the integrity of the structure, thereby deeming the relocation as unsuccessful.

b. If a relocation is not successful, then the property owner and/or applicant shall notify the Historic Preservation Planner and Chief Building Official within 24 hours of the failed relocation, or before the close of business on the next business day.

c. Failure of any degree to successfully relocate the historic structure may result in the revocation of any site development relief (waivers, variances, internal adjustments, or other relief) associated with the relocation that has been granted by the Board or the City Commission, as required by the ~~Planning and Zoning~~ Development Services Director.

- d. The applicant or property owner may submit a written request for the reconsideration of any previously approved site development relief associated with the unsuccessfully relocated structure in accordance with the following:
  - i. The reconsideration request shall be submitted to the ~~Planning and Zoning Development Services~~ Director within five business days of notification of the unsuccessful relocation. The reconsideration will be placed on the next available agenda of the recommending or approving body as appropriate.
  - ii. Requests for reconsideration shall include a statement regarding the relocation, documentation of the relocation, an explanation of the relocation failure, and how the relocation failed to meet the Relocation Plan of the approved Certificate of Appropriateness and the corrective actions to address issues caused by failed relocation.

7. **Public notice.** All applications for a Certificate of Appropriateness for the relocation of a contributing structure or an individually designated structure shall meet the "Additional Public Notice" requirements of LDR ~~Section 2.4.2(B)(1)(j)~~ Chapter 2.

(c) - (d) (This subsection shall remain in full force and effect as adopted.)

(7) - (9) (These subsections shall remain in full force and effect as adopted.)

(F) **Demolitions.** Demolition of historic or archaeological sites, or buildings, structures, improvements and appurtenances within historic districts shall be regulated by the Historic Preservation Board and shall be subject to the following requirements:

- (1) No structure within a historic district or on a historic site shall be demolished before a Certificate of Appropriateness has been issued pursuant to ~~Section 2.4.6(H)~~ Chapter 2.
- (2) The application for a Certificate of Appropriateness for demolition must be accompanied by an application for a Certificate of Appropriateness for alterations to the structure or the redevelopment of the property.
- (3) Demolition shall not occur until a building permit has been issued for the alterations or redevelopment as described in the applicable Certificate of Appropriateness.
- (4) All structures approved for demolition and awaiting issuance of a building permit for the alterations or redevelopment shall be maintained so as to remain in a condition similar to that which existed at time that the Certificate of Appropriateness for demolition was approved unless the Chief Building Official determines that an unsafe building condition exists in accordance with Section 4.5.3(G).

(5) A Certificate of Appropriateness for demolition of 25 percent or more of contributing or individually designated structure shall be subject to the following additional requirements:

(a) A demolition plan shall accompany the application for a Certificate of Appropriateness for demolition. The plan shall illustrate all portions of the existing structure that will be removed or altered.

(b) The Certificate of Appropriateness for demolition and the Certificate of Appropriateness for alternation or redevelopment shall meet the ~~"Additional Public Notice" requirements of LDR Section 2.4.2(B)(1)(j)~~ public notice requirements of Chapter 2.

(6) - (10) (These subsections shall remain in full force and effect as adopted.)

(11) ***Salvage and recordation of historic structures.***

(a) The property owner shall contact the Delray Beach Historical Society for the purpose of salvaging and preserving specified classes of building materials, architectural details and ornaments, fixtures, and the like for reuse in the restoration of the other historic properties. Confirmation of such efforts shall be provided in a written statement and submitted with the other demolition application prior to consideration by the Historic Preservation Board.

(b) The Board may, with the consent of the property owner, request that the Delray Beach Historical Society, or the owner, at the owner's expense, record the architectural details for archival purposes prior to demolition.

i. The recording may include, but shall not be limited to photographs, documents and scaled architectural drawings to include elevations and floor plans.

ii. One copy of the recording shall be submitted to the City's ~~Planning and Zoning~~ Development Services Department, and one copy shall be submitted to the Delray Beach Historical Society for archiving purposes.

(G) – (K) (These subsections shall remain in full force and effect as adopted.)

(L) ***Procedures for change of historic designation and/or classification.***

(1) Procedures for change of historic designation through removal from or expansion of a historic district. Applications shall be made to the Historic Preservation Board and may be initiated by written request of:

(a) - (d) (These subsections shall remain in full force and effect as adopted.)

- (e) The ~~Planning and Zoning~~ Development Services Director or his/her designee shall conduct a preliminary evaluation of the information provided on each application to determine if it generally conforms with criteria in LDR Section 4.5.1(N)(1). The ~~Planning and Zoning~~ Director or ~~his/her~~ designee shall then prepare a report ~~which~~ that shall contain the following:
1. Proposed revised legal boundaries of the historic district;
  2. Analysis of the historic significance and character of the property(ies) to be removed from or added to the historic district; and
  3. A staff recommendation as to whether or not the properties should be removed due to irreversible loss of historic integrity as a result of inappropriate development within a historic district or part of a district or whether or not the additional properties should be added to the historic district due to an increase in contributing structures adjacent to the district.
- (f) A public hearing shall be scheduled before the Historic Preservation Board. Notice of said hearing shall be made to the owner(s) of all properties within the subject historic district and the owner(s) of all properties within 500 feet of the affected properties at least ten days prior to the hearing by regular mail. Additional notice shall be given ~~in the same manner as provided for a rezoning action [see Section 2.4.2(B)(1)(b)] and by notice published in the newspaper at least ten days prior to the hearing, provided; however, posting pursuant to 2.4.2(B)(1)(b) is not required pursuant to Chapter 2.~~
- (2) Procedures for change of historic classification. Applications to change the historic classification of a property or properties within a historic district shall be made to the Historic Preservation Board and may be initiated by written request of:
- (a) - (d) (These subsections shall remain in full force and effect as adopted.)
- (e) The ~~Planning and Zoning~~ Development Services Director or ~~his/her~~ designee shall conduct a preliminary evaluation of the information provided on each application to determine if it generally conforms with criteria in LDR Section 4.5.1(N)(1). The ~~Planning and Zoning~~ Director or ~~his/her~~ designee shall then prepare a report ~~which~~ that shall contain the following:
- i. Analysis of the properties to be reclassified; and
  - ii. A staff recommendation as to whether or not the properties should be reclassified due to either:
    1. loss of historic integrity as a result of irreversible alterations to a contributing property; or



2. inclusion of an additional "Period of Significance" per the survey report recommendations.

(f) A public hearing shall be scheduled before the Historic Preservation Board. Notice of said hearing shall be made to the owner(s) of all properties within the subject historic district at least ten days prior to the hearing by regular mail.

(3) After conducting the public hearing, the Historic Preservation Board shall vote on the recommendation. A majority of the entire Board, present and voting, must act in the affirmative to approve the application. The decision of the Board, whether the application is approved or denied, shall then be transmitted to the City Commission. The City Commission shall consider the recommendation of the Historic Preservation Board through its standard ordinance adoption procedures, except that if any property owner within the subject historic district seeking a change of historic designation and/or classification objects, the City Commission approval shall require a super majority vote of four votes.

**Section 4.5.2. - Section 4.5.4** (These subsections shall remain in full force and effect as adopted).

**Section 4.5.5. Palm Beach County ordinances.**

Palm Beach County is a Charter County and, as such, has the ability to enact ordinances ~~which~~ that are effective within municipal boundaries. The manner in which such ordinances, ~~which~~ that impact the land development process, are accommodated within the City of Delray Beach is set forth below.

(A) – (B) (These subsections shall remain in full force and effect as adopted.)

(C) **Traffic performance standards ordinance.** [~~Reference Section 2.4.3(E) of these Land Development Regulations~~]. Development applications are subject to review relative to the Palm Beach County Traffic Performance Standards.

(D) **Coastal resource protection ordinance.** [Reference Ordinance No. 34-90, of the City of Delray Beach, adopted on August 28, 1990].

**Section 4.5.6. - Section 4.5.8** (These subsections shall remain in full force and effect as adopted).

**Section 4.5.9. The Southwest Neighborhood Overlay District.**

(A) **Defined.** The Southwest Neighborhood Overlay District is the area zoned RM located between Interstate 95 and S.W. 1st Avenue from Atlantic Avenue to S.W. 2nd Street, except along SW 12th Avenue, where it extends south to SW 3rd Street. The applicable regulations ~~set forth in Section Article 4.7, "Family/Workforce Housing"~~ (in addition to applicable Land Development Regulations) shall apply to this district, in addition to other applicable Land Development Regulations.

**Section 4.5.10. The Southwest 10<sup>th</sup> Street Overlay District.**

- (A) **Defined.** The Southwest 10<sup>th</sup> Street Overlay District is located between S.W. 10<sup>th</sup> Street to the north and Reigle Avenue to the South and between Swinton Boulevard to the east and S.W. 2<sup>nd</sup> Avenue, if it was extended to Reigle Avenue, to the west. The application regulations set forth in ~~Section~~ Article 4.7, "Family/Workforce Housing" shall apply to the Southwest 10<sup>th</sup> Street Overlay District in addition to other applicable Land Development Regulations.

**Section 4.5.11. The Carver Estates Overlay District.**

- (A) **Defined.** The Carver Estates Overlay District ~~covers two areas is shown on the map in Section 4.7.1e of the Land Development Regulations~~ Article 4.7. The applicable regulations set forth in ~~Section 4.7, in Article 4.7, "Family/Workforce Housing"~~, shall apply to the Carver Estates Overlay District in addition to other applicable Land Development Regulations.

**Section 4.5.12. The Infill Workforce Housing Area.**

- (A) **Defined.** The Infill Workforce Housing Area is located west of the Intracoastal Waterway and east of I-95 as shown on the map in ~~Section 4.7.1(f) of the Land Development Regulations~~ Article 4.7, "Family/Workforce Housing".

**Section 4.5.13. North Beach/Seagate and Ocean Neighborhood Overlay Districts.**

- (A) (This subsection shall remain in full force and effect as adopted.)

(B) **Defined.**

- (1) **North Beach/Seagate Neighborhood Overlay District.** The North Beach/Seagate Neighborhood Overlay District is ~~hereby~~ established as the area zoned Single Family Residential (R-1) Districts, including R-1-AA and R-1-AAA, located north of East Atlantic Avenue, south of George Bush Boulevard, east of the Intracoastal Waterway and west of North Ocean Boulevard (State Road A-1-A) together with the entire Seagate Neighborhood generally located south of Bucida Road, north of Lewis Cove, between the Intracoastal Waterway and south Ocean Boulevard (State Road A-1-A), less Lots 35 through 45, Block 5, of the plat of Seagate Extension. The overlay-specific regulations established in ~~Section 4.4.3(E)(4), 4.4.3(F)(1), and 4.4.3(G)(1)~~ shall apply to all parcels within the Overlay District, excluding those parcels located within a designated historic district or individually listed on the Local Register of Historic Places.
- (2) **Ocean Neighborhood Overlay District.** The Ocean Neighborhood Overlay District is ~~hereby~~ established as the area located east of Ocean Boulevard (State Road A-1-A), zoned Single Family Residential (R-1) Districts, including R-1-A, R-1-AAA, and Low Density Residential (RL) District. The overlay-specific regulations established in ~~Sections 4.4.3(E)(4), 4.4.3(F)(1), and~~

4.4.3(G)(1) shall apply to all parcels within the Overlay District, excluding those parcels located within a designated historic district or individually listed on the Local Register of Historic Places.

**Section 4.5.14** (This subsection shall remain in full force and effect as adopted).

**Section 4.5.15. I-95/CSX Railroad Corridor Overlay District.**

(A) **Defined.** The I-95/CSX Railroad Corridor Overlay District is located east of the CSX Railroad, west of I-95, south of the E-4 Canal, and north of the Historic Depot property, as shown on the map in ~~Section 4.7.1(t) of the Land Development Regulations~~ Article 4.7. The applicable regulations ~~set forth in Section in Article 4.7, "Family/Workforce Housing",~~ shall apply to the I-95/CSX Railroad Corridor Overlay District in addition to other applicable Land Development Regulations.

**Section 4.5.16** (This subsection shall remain in full force and effect as adopted).

**Section 4.5.17. Silver Terrace Courtyards Overlay District.**

(A) **Defined.** The Silver Terrace Courtyards Overlay District is located on the west side of South Federal Highway, approximately 320 feet south of SE 10th Street and north of the Plaza at Delray, as shown on the map in ~~Section 4.7.1(v) of the Land Development Regulations~~ Article 4.7, "Family/Workforce Housing." The applicable regulations ~~set forth in Section 4.7, "Family/Workforce Housing", in Article 4.7~~ shall apply to the Silver Terrace Courtyards Overlay District in addition to other applicable Land Development Regulations.

**Section 4.5.18. - Section 4.5.21** (These subsections shall remain in full force and effect as adopted).

Section 31. Chapter 4, "Zoning Regulations," Article 4.6, "Supplemental District Regulations," of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

**Section 4.6.1. – Section 4.6.3** (These subsections shall remain in full force and effect as adopted.)

**Section 4.6.4. Special district boundary treatment.**

The following special district boundary treatments are ~~to be~~ landscape minimums. If other treatments are required, the requirements ~~which~~ that provide for the greatest separation and most buffering shall apply.

(A) (This subsection shall remain in full force and effect as adopted.)

(B) **Industrial zoning adjacent to residential zoning.**

(1)- (2) (These subsections shall remain in full force and effect as adopted.)

(3) Where the rear or side of industrially zoned property does not directly abut a residentially zoned property, but is separated from it by the combined I-95 right-of-way and the railroad right-of-way, or the I-95 right-of-way, the industrially zoned property shall provide a 50-foot building setback from the property line located adjacent to the right-of-way line.

(a) In addition, the following method of screening shall be provided:

(i) If the ~~Site Plan Review and Appearance Board~~ approving body determines that the architectural elevation facing I-95 and the Railroad right-of-way is an aesthetic asset to the corridor, the perimeter landscaping shall consist of the following:

1. Shade trees, 30 feet 'on center' and a continuous hedge to be maintained at a minimum height of four feet. Shade trees shall be a minimum of 12 feet in height with a six-foot spread at the time of installation.

2. A continuous hedge maintained at a minimum height of four feet. Hedge materials shall be a minimum of two feet in height at time of installation.

(ii) If the ~~SPRAB~~ approving body determines that the architectural elevation facing I-95 and the Railroad right-of-way lends itself more to the industrial function of the building, and does not provide an aesthetic asset to the corridor, the perimeter landscaping shall consist of the following:

1. A 15 foot deep buffer adjacent to I-95 and the Railroad.

2. Within this area, a A double staggered row of shade trees shall be planted 20 feet 'on center' within the row landscape buffer. Shade trees must be a minimum of 12 feet in height at the time of planting.

3. In addition, a A hedge must be planted adjacent to the rear property line to be maintained at a six-foot height. Shade trees must be a minimum of 12 feet in height at the time of planting and a Hedge material must be a minimum of four feet in height at the time of planting.

(4) (This subsection shall remain in full force and effect as adopted.)

(C) - (D) (These subsections shall remain in full force and effect as adopted.)

**Section 4.6.5.** (This subsection shall remain in full force and effect as adopted.)

**Section 4.6.6. Commercial and industrial uses to operate within a building.**

(A) *Intent.*

- (1) All commercial and industrial uses shall ~~conduct~~ be conducted within a completely enclosed building rather than outside regardless of the zoning district. However, certain aspects of a use may be conducted outside and such aspects are identified in (B) below.
- (2) Certain conditional uses that are allowed within commercial, industrial, and mixed use districts can be characterized as outside uses. Such operations may be conducted outside when it is specifically determined through the conditional use process that the outside aspects of the use are appropriate. Conditions may be applied to mitigate visual and other impacts.
- (3) Commercial and industrial uses may be allowed outside on a temporary basis for special events pursuant to ~~Section 2.4.6(F)~~ Chapter 2.

(B) (This subsection shall remain in full force and effect as adopted.)

(C) ***Restrictions on outside usage.***

- (1) Dumpsters, recycling containers, and similar service areas must be enclosed on three sides and have vision obscuring gates on the fourth side, unless such areas are not visible from any adjacent public right-of-way.
- (2) Outside storage. Materials and equipment stored outside must be screened from view from adjacent public rights-of-way in a manner approved by the ~~Site Plan Review and Appearance Board~~ approving body pursuant to Chapter 2. Outside storage may not be located within a required setback area. It is not intended that sales or customer service be conducted in an area designated for storage.

(3) - (4) (These subsections shall remain in full force and effect as adopted.)

**Section 4.6.7. Signs.**

(A) - (B) (These subsections shall remain in full force and effect as adopted.)

(C) ***Procedures.***

(1) ***Issuance of permits, validity and renewal.***

- (a) Permit applications shall be reviewed by the Chief Building Official or his/her designee within 30 days of submission of the permit application. Upon satisfactory compliance with the minimum submission requirements of the LDRs and a determination that the proposed sign meets all applicable standards set forth in the LDRs including Section 4.6.7(D), the Chief Building Official, or his/her designee, shall cause a sign permit to shall be issued to the applicant.

(b) The permit shall be valid for a period of 180 days during which period the sign may be erected; ~~however, the Chief Building Official, or his/her designee, for good cause shown and upon payment of 50 percent of the original application fee, may renew the permit~~

(c) The permit may be renewed with good cause for an additional 90-day increment ~~provided that there have not been enacted, in the 180 day period, standards of which the permit would be in violation. Permits shall be required for all signs not listed within this code as either exempt or prohibited.~~

(2) ***Permits for individual signs.*** ~~Permits for signs shall be on a form as promulgated by the Chief Building Official~~ a standard Development Services Department form.

(a) (This subsection shall remain in full force and effect as adopted.)

(D) - (E) (These subsections shall remain in full force and effect as adopted.)

(F) ***Signs requiring permits.***

(1) ***General.*** All signs, other than those exempted by Subsection (H) or prohibited by Subsection (J), must obtain a sign permit. Applications for sign permits shall be submitted and processed pursuant to these LDRs. Sign permits shall be issued by the Development Services Department under the direction of the Director for the following:

(a) ***Master and blanket sign program signs.*** Individual signs being permitted under the provisions of an approved Master Sign Program ~~or Blanket Program.~~

(b) ***Signs meeting standards.*** Individual signs ~~which~~ that conform in all respects to the provisions of Subsection (E) and (K) of this Section.

(c) ***Special purpose signs.*** ~~Which~~ That comply with the requirements of Subsection (F)(3).

(2) ***Master sign and blanket sign programs.*** A Master Sign Program is to be used when the development of a project is of such a scale or character that the normal application of the design and/or aesthetic standards of Subsections (D) and (E), respectively, will not result in an effective sign program and signing more permissive than said standards is necessary.

~~(a) Blanket sign program. A Blanket Sign Program may be required for a commercial property establishing the font, color, size and locations of signs on a multiple tenant building. A Blanket Sign Program shall be approved by the Site Plan Review and Appearance Board or the Historic Preservation Board if the project is in a historic district or historically designated site. After approval of a Blanket Sign Program, individual signs consistent therewith shall be administratively approved.~~

~~(a) Master sign program. A Master Sign Program is to be used when the development of a project is of such a scale or character that the normal application of the design and/or aesthetic standards of Subsections (D) and (E), respectively, will not result in an effective sign program and signing more permissive than said standards is necessary. Approval of a Master Sign Program may include the automatic granting of waivers and/or adjustments to the provisions of Subsections (D) and (E) provided that the intent of the sign code is maintained and the character of the community and neighborhood is not diminished.~~

(b) A Master Sign Program shall be approved by the Site Plan Review and Appearance Board or if the project is in a historic district or historically designated site, by the Historic Preservation Board. After approval of a Master Sign Program, individual signs consistent therewith with the Master Sign Program shall be administratively approved.

~~(c) Nothing contained herein shall prevent dDiversity and creativity of individual signs in the a Master Sign Program is encouraged.~~

(3) (This subsection shall remain in full force and effect as adopted).

(G) - (O) (These subsections shall remain in full force and effect as adopted).

**Section 4.6.8** (This subsection shall remain in full force and effect as adopted.)

**Section 4.6.9. Off-street parking regulations.**

(A) - (C) (These subsections shall remain in full force and effect as adopted.)

(D) **Design standards.** All parking spaces ~~which are created in order to fulfill parking requirements of this Section (i.e. required parking spaces)~~ shall conform to the design standards of this subsection.

(1) - (7) (These subsections shall remain in full force and effect as adopted.)

(8) **Marking and signage.** Parking spaces required to be striped shall comply with the Minimum Construction Standards and Specifications document developed by the City Engineer and Figure 4.6.9(D)(6)-1, Typical Parking Space Detail RT 4.2, as further identified:

(a) - (c) (These subsections shall remain in full force and effect as adopted.)

(d) All signs and markings shall comply with the design criteria as set forth in the ~~M.U.T.C.D.~~ (Manual of Uniform Traffic Control Devices (MUTCD), except that the City Engineer, or his designee, may waive such compliance on a case-by-case

basis. Any decision by the City Engineer or his designee may be appealed pursuant to ~~Section 2.4.7 of the Land Development Regulations of the Code of Ordinances of the City of Delray Beach, Florida Chapter 2.~~

(e) (This subsection shall remain in full force and effect as adopted.)

(9) ***Compact car parking areas.*** Compact car parking areas, where permitted, shall be clearly marked with markings as follows: [See Subsection (1)(g) as to approval for use of Compact Car Spaces].

(a) All compact spaces shall have "compact car only" painted on the required wheel stops.

(b) Alternate signage for compact car parking may be approved by the ~~Chief Building Official~~ administratively when comparable to the standards set forth above.

(10) - (14) (These subsections shall remain in full force and effect as adopted.)

(E) (This subsection shall remain in full force and effect as adopted.)

(F) ***Special provisions.***

(1) (This subsection shall remain in full force and effect as adopted.)

(2) ***Temporary use of parking spaces for other purposes.*** Parking lots may be used for the sale of merchandise on a temporary basis for special events. Request for such approval shall be governed by ~~Section 2.4.6(H)~~ Chapter 2.

(3) - (4) (These subsections shall remain in full force and effect as adopted.)

**Section 4.6.10. - Section 4.6.18** (These subsections shall remain in full force and effect as adopted.)

**Section 4.6.19. Tree preservation, protection, enforcement, and maintenance.**

(A) - (B) (These subsections shall remain in full force and effect as adopted.)

(C) ***Compliance, enforcement and relief.***

(1) ***Compliance.***

(a) Prior to the issuance of a landscape permit or a building permit for a structure, a paving permit, or site permit for infrastructure installation, compliance with the requirements of this section shall be assured through the review and approval of a landscape plan submitted pursuant to ~~Section 2.4.3(C)~~ Chapter 2 and Section 4.6.16.



(b) Prior to any tree removal or land clearing operation, a Vegetation Removal Permit per ~~See~~ Section 4.6.19(E); must be submitted and approved.

(2) **Enforcement.** Violations of this section that are deemed to be public nuisances under Chapter 100 of the Code of Ordinances may be enforced in accordance with all remedies and alternative remedies provided under Chapter 100. Violations may also be enforced by the Code Enforcement Board, County Court Citation, a Notice to Appear, and/or any other means available under state or federal law, ~~inclusive~~.

(D) - (M) (These subsections shall remain in full force and effect as adopted.)

**Section 4.6.20.** (This subsection shall remain in full force and effect as adopted.)

Section 32. Chapter 5, “Subdivision Regulations,” Article 5.1, “General Provisions,” Section 5.1.6, “Compliance with Zoning Regulations,” Subsection (A), “General,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

**Sec. 5.1.6. - Compliance with zoning regulations.**

(A) **General.** All subdivisions shall conform with, at least, the minimum zoning regulations applicable to the property being subdivided ~~(i.e. a. A nonconforming-situation lot cannot be created through the act of subdivision unless a variance to such effect or waiver is approved by the Board of Adjustment, or relief granted by the City Commission pursuant to Chapter 2 and Section 4.3.1(D) prior to action on a subdivision plat.~~

Section 33. Chapter 5, “Subdivision Regulations,” Article 5.2, “Platting,” Section 5.2.2, “Requirements,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

**Sec. 5.2.2. - Requirements.**

(A) A plat shall comply with the provisions of F.S. Chapter 177, as amended.

~~(B) A plat submission shall contain information as set forth in Section 2.4.3(H).~~

~~(C) A plat shall be processed pursuant to Sections 2.4.5(J), (K), or (L), as appropriate Chapter 2.~~

Section 34. Chapter 5, “Subdivision Regulations,” Article 5.3, “Dedication and Impact Requirements,” Section 5.3.3, “Water and Sewer Systems,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

**Sec. 5.3.3. - Water and sewer systems.**

(A) (This subsection shall remain in full force and effect as adopted.)

(B) **Plans required.** Plans, ~~sufficient for the step in the review process, shall be provided pursuant to Sections 2.4.3(D) and 2.4.3(F). Approval of such plans shall be pursuant to Section 2.4.6(L) shall be processed pursuant to Chapter 2.~~

(B) – (F) (These subsections shall remain in full force and effect as adopted.)

Section 35. Chapter 5, “Subdivision Regulations,” Article 5.3, “Dedication and Impact Requirements,” Section 5.3.4, “Drainage Systems,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

**Sec. 5.3.4 - Drainage systems.**

(A) (This subsection shall remain in full force and effect as adopted.)

(B) **Plans required.** Plans, ~~sufficient for the step in the review process, shall be provided pursuant to Sections 2.4.3(D) and 2.4.3(F). Approval of such plans shall be pursuant to Section 2.4.6(L) shall be processed pursuant to Chapter 2.~~

(C) – (F) (These subsections shall remain in full force and effect as adopted.)

Section 36. Chapter 6, “Infrastructure and Public Property,” Article 6.1, “Design Standards and Requirements,” Section 6.1.1, “General,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

**Sec. 6.1.1. General.**

(A) (This subsection shall remain in full force and effect as adopted.)

(B) **Waivers allowed.** Waivers to the Standards set forth in this Article 6.1 are allowed pursuant to ~~Section 2.4.7(B)(1)(a) Chapter 2,~~ provided that the City Engineer concurs in the granting of the waiver.

Section 37. Chapter 6, “Infrastructure and Public Property,” Article 6.1, “Design Standards and Requirements,” Section 6.1.2, “Streets and Alleys,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

**Sec. 6.1.2. Streets and alleys.**

(A) (This subsection shall remain in full force and effect as adopted.)

(B) **Principles of design.** The following principles of street and alley design and layout shall be followed in the platting of subdivisions and development of single lots and large tracts of land.

- (1) The arrangement, character, extent, width, grade, and location of all streets shall conform to the Palm Beach County Thoroughfare Plan, the Florida Department of Transportation Highway Plan, and the Master Street Plan as contained in the ~~Traffic-Mobility~~ Mobility Element of the Comprehensive

Plan. Also, these factors shall be considered in their relation to existing and planned streets, to topographic conditions, to public convenience and safety, in their appropriate relationship to the proposed use of the land to be served by such streets, and the most advantageous development of the surrounding neighborhood.

(2) A proposed street or alley layout shall provide for the continuation or projection of existing streets and alleys in the surrounding area unless the City Commission Planning and Zoning Board deems such extension undesirable for specific reasons of topography or design, subsequent to recommendation by the Planning and Zoning Board via the platting process.

(3) - (9) (These subsections shall remain in full force and effect as adopted.)

(C) **Design requirements.** The following standards shall be met in the design of all streets or alleys.

(1) (This subsection shall remain in full force and effect as adopted.)

(2) **Intersections.**

(a) Streets shall be laid out to intersect as nearly as possible at right angles. No street shall intersect another at an angle of less than 60 degrees except at a "Y" intersection of local streets.

(b) Intersections involving the junction of more than two streets are prohibited except where found to be unavoidable by the ~~Local Planning Agency~~City Commission, subsequent to recommendation by the Planning and Zoning Board via the platting process.

(c) As far as possible, intersections along arterial streets shall be located not less than 800 feet apart, measured from center line to center line.

(d) Street jogs with center line off-sets less than 125 feet shall be avoided.

(e) Property line radii shall be as follows:

1. ~~1.~~ 25 feet along local streets,

2. ~~2.~~ Greater than 25 feet, as determined by the City Engineer, at intersections ~~which~~ that are less than 60 degrees,

3. ~~3.~~ Edge of paving shall be on a minimum radii of 40 feet excepting in cases where the width of right-of-way does not so permit.

(3) (This subsection shall remain in full force and effect as adopted.)

(4) **Dead-end streets and cul-de-sacs.**

- (a) **Rule.** Dead-end streets without provision of a turnaround are prohibited. Generally, a cul-de-sac shall be required; however, in unique situations where a cul-de-sac cannot reasonably be accommodated either a "T" or "hammerhead" turn around may be accepted by the ~~Local Planning Agency~~ City Commission as part of the plat process, if approved by the Fire Marshal.
- (b) **Temporary dead-ends.** If a street is to be a through street but shall terminate in a dead-end for a significant period of time, a temporary turnaround shall be provided. The temporary turnaround shall be paved unless otherwise ~~provided for~~ approved by the Planning and Zoning Board City Commission.
- (c) **Length.** A dead-end street shall not exceed 1,000 feet except upon a finding by the ~~Planning and Zoning Board~~ City Commission as part of the plat process that one or more of the following would occur:
  - 1. ~~The~~ preservation of natural features and resources
  - 2. ~~Elimination~~ of unnecessary traffic in the area
  - 3. ~~Preservation~~ or increasing of open space.
- (d) **Cul-de-sac turnaround design standards.** The cul-de-sac shall be constructed to the following standards:
  - 1. ~~Minimum~~ diameter to the outer edge of pavement, or curb line, of 90 feet.
  - 2. ~~Minimum~~ diameter to property line of 100 feet.

(D) (This subsection shall remain in full force and effect as adopted.)

Section 38. Chapter 6, "Infrastructure and Public Property," Article 6.3, "Use and Work in the Public Right of Way," of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

**Section 6.3.1.** (This subsection shall remain in full force and effect as adopted.)

**Section 6.3.2. - Plans and permits required.**

(A) A permit is required for any work undertaken within the public right-of-way pursuant to ~~Section 2.4.6(N)~~ Chapter 2. Before the City Engineer shall issue a permit for such work, ~~he shall first cause the person or persons seeking to make the improvements to file, in his office, plans and specifications of the proposed improvements must be submitted, and shall be reviewed for a determination of compliance with which he shall examine to determine that they meet the standards set forth in these Regulations.~~

**Section 6.3.3.** (This subsection shall remain in full force and effect as adopted.)

**Section 6.3.4. - Canopies.**

A) Canopies, marquees, and covered walkways may extend into the public right-of-way when approved by the Chief Building Official through determination that all applicable requirements have been met and the approval of an applicable a hold harmless agreement with the City.

Section 39. Chapter 7, “Building Regulations,” Article 7.1, “Building Regulations,” Section 7.1.7, “Seawalls,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

**Section 7.1.7. - Seawalls.**

(A) – (D) (These subsections shall remain in full force and effect as adopted.)

(E) *Approval procedures.* The construction of a new seawall, or alteration of an existing seawall requires the issuance of a building permit. In addition to the requirements of ~~Section 2.4.6~~ Chapter 2, the permit application is subject to the following:

- (1) A survey showing the location and elevation of the seawall in conjunction with adjoining lands, waters and channels;
- (2) Plans and specifications prepared and sealed by a professional engineer registered in the State of Florida; and
- (3) Approval from the applicable reviewing agencies prior to issuance of a building permit. Application to these agencies is the responsibility of the applicant.

Section 40. Chapter 7, “Building Regulations,” Article 7.1, “Building Regulations,” Section 7.1.8, “Construction Parking and Staging,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

**Section 7.1.8. - Construction parking and staging.**

(A) Construction parking.

(1) *On-site parking.*

- (a) All construction parking shall be accommodated within the construction site or compound as approved by the Chief Building Official pursuant to ~~Section 2.4.6(F)~~, as amended Chapter 2.

- (b) A site plan, delineating where all on-site parking and material staging will be located, shall be provided prior to issuance of the first building permit associated with the construction parking.
- (c) If all construction-related parking cannot be accommodated on-site, the off-site parking regulations shall apply.

(2) – (3) (These subsections shall remain in full force and effect as adopted.)

(B) – (D) (These subsections shall remain in full force and effect as adopted.)

Section 41. Chapter 7, “Building Regulations,” Article 7.4, “Housing Code,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

**Section 7.4.1. - Adoption by reference. Minimum housing standard.**

~~With the exception of those sections repealed in Section 7.4.2 the 1994 edition of the Standard Housing Code, together with the revisions thereto, as compiled by Southern Building Code Congress International Inc., of which not less than three copies have been and are now filed in the office of the City Clerk, is hereby adopted and incorporated as fully as if set forth at length herein. The provisions of the 2021 ICC Property Maintenance Code therein shall be controlling in the use, maintenance, and occupancy of shall apply to all dwellings, dwelling units, or residential structures within the area of jurisdiction of in the City. If a later edition of this code or subsequent amendments are made the applicable minimum code, then those revisions or amendments shall automatically become the adopted code under this chapter.~~

**~~Sec. 7.4.2. - Amendments and additions to Code.~~**

~~Sections 106 and 107 of the above referred to Standard Housing Code, pertaining to the Housing Board of Adjustments and Appeals, are hereby repealed.~~

Section 42. Chapter 7, “Building Regulations,” Article 7.8, “Unsafe Buildings or Structures,” Section 7.8.3, “Maintenance of buildings or structures required; responsibility,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

**Section 7.8.3. – Responsibility for mMaintenance of buildings or structures required; responsibility.**

All buildings or structures, both existing and new, and all parts thereof, including all materials, fixtures or appliances installed therein shall be maintained in a safe, secure and sanitary condition. All policies, procedures, requirements and safeguards ~~which~~ that are required by the Standard Building Code, Life Safety Code, Fire Prevention Code ~~or Standard Housing Code,~~ 2021 ICC Property Maintenance Code and/or any other applicable codes adopted by the City, or as may be amended from time to time, in a building when erected, altered, repaired, moved or occupied, shall be maintained in good working order. The owner, ~~or his~~ or designated agent, shall be responsible for the maintenance of buildings and structures.

Section 43. Chapter 7, “Building Regulations,” Article 7.8, “Unsafe Buildings or Structures,” Section 7.8.14, “Appeals, generally; Board of Adjustment,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

**Section 7.8.14. - Appeals, ~~generally;~~ to the Bboard of Aadjustment.**

(A) Appeals to the Board of Adjustment may be ~~taken~~ made pursuant to Chapter 2 by any person aggrieved, or by any officer or bureau of the governing body of the City, affected by any decision of the Chief Building Official concerning interpretation, administration, or enforcement of the following provisions of the Land Development Regulations:

(1) Building regulations: Article 7.1 except Sections 7.1.5 through 7.1.7.

(2) Electrical Code: Article 7.2~~Gas Code: Article 7.3~~

(3) Gas Code: Article 7.3~~Mechanical Code: Article 7.5~~

(4) Housing Code: Article 7.4~~Plumbing Code: Article 7.6~~

(5) Mechanical Code: Article 7.5~~Electrical Code: Article 7.2~~

(6) Plumbing Code: Article 7.6~~Housing Code: Article 7.4~~

(7) Unsafe building/structure: Article 7.8

(8) Moving buildings: Article 7.10

(B) ~~It is the intent of this subchapter that a~~All questions of interpretation, administration, and enforcement shall first be presented to the Chief Building Official. Questions shall be presented to the Board of Adjustment only as an appeal of the Chief Building Official's determination. Appeals shall be filed in writing via certified U.S. Mail return receipt requested, and received by the Chief Building Official no later than 30 days after receipt of a written decision from the Chief Building Official except as specified in 7.8.9. The form of the appeal is as specified in 7.8.16. The Chief Building Official shall forth with transmit to the Board all papers constituting the record on which the appeal is based.

Section 44. Chapter 8, “Special Implementation Programs,” Article 8.5, “Public Arts Program,” Section 8.5.3, “Murals,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

**Section 8.5.3. - Murals.**

(A) – (B) (These subsections shall remain in full force and effect as adopted.)

(C) **Placement and Design requirements.** All murals must meet the following requirements:

(1) -(5) (These subsections shall remain in full force and effect as adopted.)

(6) **Illumination.** Murals may be illuminated only by indirect lighting. Internal illumination, blinking lights, and flashing lights are prohibited. Any proposed illumination shall be accompanied by a photometric plan ~~as set forth in Section 2.4.3(B)(17)~~ that demonstrates compliance with Section 4.6.8. Illumination shall not continue after 11:00 pm is prohibited. ~~Internal illumination, blinking lights, and flashing lights are prohibited.~~

(7) -(9) (These subsections shall remain in full force and effect as adopted.)

Section 45. All ordinances or parts thereof in conflict or inconsistent with the provisions of this Ordinance are hereby repealed.

Section 46. 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 47. Specific authority is hereby given to the City Clerk to codify this Ordinance.

Section 48. 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 \_\_\_\_\_, 2024.

ATTEST:

\_\_\_\_\_  
Katerri Johnson, City Clerk

\_\_\_\_\_  
Thomas F. Carney, Jr., Mayor

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Lynn Gelin, City Attorney

First Reading \_\_\_\_\_

Second Reading \_\_\_\_\_