

ORDINANCE NO. 04-23

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF DELRAY BEACH CODE OF ORDINANCES, CHAPTER 1, "GENERAL PROVISIONS," ARTICLE 1.1, "ADOPTION OF CODE," SECTION 1.1.6, "AMENDMENTS," MODIFYING THE PROCEDURE FOR PRIVATELY INITIATED AMENDMENTS TO THE LAND DEVELOPMENT REGULATIONS; AMENDING CHAPTER 2, "ADMINISTRATIVE PROVISIONS," ARTICLE 2.4, "GENERAL PROCEDURES," SECTION 2.4.5, "PROCEDURES FOR OBTAINING DEVELOPMENT APPROVALS," SUBSECTION (M), "AMENDMENT TO THE LAND DEVELOPMENT REGULATIONS," TO REQUIRE SPONSORSHIP BY A SINGLE COMMISSIONER IN ORDER TO APPEAR AT A COMMISSION WORKSHOP MEETING AND TO REQUIRE SUPPORT BY AT LEAST THREE MEMBERS OF THE CITY COMMISSION AT A WORKSHOP MEETING IN ORDER TO SUBMIT A PRIVATELY INITIATED AMENDMENT TO THE LAND DEVELOPMENT; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AUTHORITY TO CODIFY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on March 25, 2021, the City Commission adopted the Local Rules of Procedure that specifies workshops may be held to discuss Commissioner sponsorship of privately initiated changes to the City's Land Development Regulations (LDR); and

WHEREAS, on August 10, 2021, the City Commission adopted Ordinance No. 25-21 establishing procedures for Commission sponsorship of privately initiated changes to the LDR; and

WHEREAS, on October 11, 2022, the City Commission directed staff to modify the process for privately initiated LDR amendments to require sponsorship of at least three members of the City Commission in order to submit a privately initiated LDR amendment, and

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

WHEREAS, pursuant to Florida Statutes 163.3174(4)(c), the Planning and Zoning Board for the City of Delray Beach, sitting as the Local Planning Agency, reviewed the proposed text amendment to the Land Development Regulations at a public hearing on December 12, 2022, and voted 6 to 0 to recommend that the proposed text amendments be approved, finding that the request and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations; and

WHEREAS, the City Commission of the City of Delray Beach considered the Ordinance at a public hearing on February 7, 2023.

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 proposed LDR text amendments are consistent with the Comprehensive Plan.

Section 3. Chapter 1, “General Provisions”, Article 1.1, “Adoption of Code”, Section 1.1.6, “Amendments”, of the Land Development Regulations of the City of Delray Beach, Florida, is 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. No such action, however, shall be taken until a recommendation is obtained from the Planning and Zoning Board and until a public hearing has been held by the City Commission. Any such change shall be made by ordinance, pursuant to procedures found in LDR Section 2.4.5(M).
- (B) 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 prior to the submittal of an application for to request the privately initiated amendment. Privately initiated amendments to the LDR shall be made pursuant to the provisions of Section 2.4.5(M).
- (C) Changes to the Zoning Map shall be made pursuant to the provisions of Section 2.4.5(D).

Section 3. Chapter 2, “Administrative Provisions,” Article 2.4, “General Procedures,” Section 2.4.5, “Procedures for obtaining development approvals,” Subsection (M), “Amendment to the Land Development Regulations,” of the Land Development Regulations of the City of Delray Beach, Florida, is amended as follows:

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

- (1) ***Rule.*** Amendments to the LDR may be initiated by the City Commission, Planning and Zoning Board, City Administration, or by a member of the public. Members of the public may

request an amendment pursuant to the following procedures:

- (a) At least one member of the City Commission shall sponsor the ~~amendment to the LDR~~ at proposed amendment at a public meeting in order to present the request at a City Commission Workshop for consideration. ~~in accordance with the adopted Rules and Procedures of the City Commission.~~
  - (b) At the workshop meeting, at least three Commissioners must support the request.
  - ~~(b)~~ Applications for a privately initiated amendment shall only be accepted by the Development Services Department after consideration and sponsorship support at a City Commission Workshop and must be submitted within 90 days of the City Commission Workshop where the amendment was sponsored.
  - ~~(c)~~ Requests shall not significantly deviate from the amendment considered by the City Commission at the Workshop by including additional unrelated amendments or development standards, proposing higher density or intensity, adding uses that were not discussed or understood to be part of the initial request, etc.
- (2) ***Required information.*** The following information must be submitted for an amendment to the LDR:
- (a) Submission of an application; and
  - (b) A draft of the proposed ordinance, submitted in both hardcopy and electronic format approved by the City that includes the appropriate whereas clauses and amendments, such as but not limited to text with deletions shown by strikethrough and additions shown by underline, graphics, maps, or other information; and
  - (c) An analysis of the amendment and its potential impacts or benefits, including supporting documentation such as exhibits, graphs, similar regulations from other municipalities, etc.; and
  - (d) Submission of the processing fee pursuant to LDR Section 2.4.3(K).
- (3) ***Procedure.*** An amendment to the LDRs shall be processed through the following sequence:
- (a) Receipt and certification as complete;
  - (b) Consideration at a public hearing before the Planning and Zoning Board;
  - (c) Forwarding of a recommendation to the City Commission and consideration at first

reading of the enacting ordinance;

- (d) Public hearing before the City Commission and adoption or rejection at second reading.
- (4) **Conditions.** The proposed text, graphics, maps, or other information for the amendment to the LDR may be revised by the Planning and Zoning Board or the City Commission.
- (5) **Findings.** In addition to the provisions of Section 1.1.6(A), the City Commission must make a finding that the text amendment is consistent with the Comprehensive Plan.
- (6) **Limitations of amendments.** Except for City initiated amendments, whenever the City Commission has denied an application for an amendment to the LDR, the City Commission shall not thereafter consider any further application for the same type of individually initiated amendment for a period of 12 months from the date of such action.
  - (a) The time limit stated above may be waived by three affirmative votes of the City Commission when such action is found and deemed necessary to prevent injustice or to facilitate the proper development of the City.
  - (b) The above limitation shall not apply to a petition that expires during processing or denied in a manner deemed as "without prejudice."

Section 4. All ordinances or parts thereof or parts of the Code conflicting or inconsistent with the provisions of this ordinance are hereby repealed.

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

Section 7. This ordinance shall become effective upon approval at second reading. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective.

PASSED AND ADOPTED in regular session on second and final reading on this \_\_\_\_\_ day  
of \_\_\_\_\_, 2023.

ATTEST:

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

\_\_\_\_\_  
Shelly Petrolia, Mayor

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

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

Approved as to form and legal sufficiency:

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