

ORDINANCE NO. 40-22

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 4, "ZONING REGULATIONS," ARTICLE 4.3, "DISTRICT REGULATIONS, GENERAL PROVISIONS," SECTION 4.3.3, "SPECIAL REQUIREMENTS FOR SPECIFIC USES," RENAMING SUBSECTION 4.3.3(R), "KEEPING OF LIVESTOCK," TO "RESTAURANTS," AND ADOPTING NEW REGULATIONS FOR RESTAURANTS; ADOPTING A NEW SUBSECTION 4.3.3(RRR), "KEEPING OF LIVESTOCK," TO READOPT PREVIOUS SUBSECTION 4.3.3(R); AMENDING ARTICLE 4.4, "BASE ZONING DISTRICT," SECTION 4.4.9, "GENERAL COMMERCIAL (GC) DISTRICT," SECTION 4.4.11, "NEIGHBORHOOD COMMERCIAL (NC) DISTRICT," SECTION 4.4.13, "CENTRAL BUSINESS (CBD) DISTRICT," SECTION 4.4.14, "RESORT/TOURISM (RT) DISTRICT," SECTION 4.4.15, "PLANNED OFFICE CENTER (POC) DISTRICT," AND SECTION 4.4.24, "OLD SCHOOL SQUARE HISTORIC ARTS DISTRICT (OSSHAD)," TO REFLECT THE ADOPTION OF NEW SUBSECTION 4.3.3(R), "RESTAURANTS"; AMENDING ARTICLE 4.6, "SUPPLEMENTAL DISTRICT REGULATIONS," SECTION 4.6.9, "OFF-STREET PARKING REGULATIONS," UPDATING TERMINOLOGY RELATED TO RESTAURANT PARKING, ADOPTING OFF-STREE PARKING REQUIREMENTS FOR RESTAURANTS, AND ADOPTING OFF-STREE PARKING REQUIREMENTS FOR STAND-ALONE BARS, NIGHT CLUBS, AND COCKTAIL LOUNGES; AND AMENDING APPENDIX A, "DEFINITIONS," DELETING THE DEFINITIONS FOR DRIVE-IN RESTAURANT OR REFRESHMENT STAND AND DRIVE THRU RESTAURANT, UPDATING THE DEFINITION FOR A BONA FIDE RESTAURANT AND ADOPTING DEFINITIONS FOR FAST CASUAL RESTAURANTS, LIMITED INDOOR DINING, AND DRIVE-THROUGH FACILITIES; 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 LDR occasionally require updates to ensure consistency with market practices; and

WHEREAS, the adopted LDR does not currently regulate food service parking uses in a manner consistent with the changing dynamics of the restaurant industry; and

WHEREAS, the regulation of off-street parking is important to achieving the overall mobility goal of a balanced, reliable transportation system for all transportation users, including visitors, employees, and residents; and

WHEREAS, the proposed Ordinance adopts restaurant definitions and parking regulations consistent with food service industry adaptations; 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 ___ 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 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.

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

(R) ~~Keeping of livestock. The keeping, maintaining, or pasturing of horses, cattle, mules, goats, sheep, swine, poultry, or other livestock in the City of Delray Beach is prohibited except on property within the Agricultural (A) and Rural Residential (RR) Zone Districts and then only in compliance with provisions of those regulations.~~

Notes:

- ~~• Subsection (S) Junkyards deleted in its entirety.~~
- ~~• Enacted the following new Subsection (S) Telecommunication Towers and Antennas.~~

Restaurants. A commercial establishment whose principal business is the preparation, service, and selling of food for consumption on or off premises during all hours of operation, appropriately licensed, equipped, staffed, and managed in accordance with the provisions for specific types of restaurants as defined in this section. Where alcoholic

beverages are sold, restaurants must derive no less than 51 percent of the gross revenue from the sale of food and non-alcoholic beverages.

(1) **Bona fide Restaurant:**

(a) **Full Course Meals.** Table service and full course meals must be continually offered during all hours of operation with customers generally able to order any item on the applicable menu. Pursuant to Florida Statutes, as may be amended from time-to-time, full course meals shall include a salad or vegetable, entrée, a beverage, and bread.

(b) **Facility and Staff Requirements.** Full course meals must be prepared in a licensed kitchen facility located in a completely enclosed room, under roof of the main structure, or in an interior court, with staff available for the preparation and service of full course meals during all hours of operation.

(c) **Floor Plan Requirements.** A floor plan that defines all areas and functions of a restaurant shall provide the following:

1. A copy of the information that has been approved by the State and other regulatory body for licensure.
2. The location and number of tables, chairs, or customer counters to accommodate the service of full course meals to patrons.
3. The maximum number of patrons is limited to 110 percent of the total number of seats at tables or customer counters where full course meals are served, so long as the total number of persons does not exceed the Florida Building Code or Florida Fire Code.
4. Areas designated for non-dining purposes, such as dance floors, recreational game areas, customer counters, etc. where drinks are permitted to be served to standing or seated patrons but where full course meals will not be served may be provided for the enjoyment of seated customers.

(d) **License Requirements.** A bona fide restaurant must provide proof of all appropriate licenses issued by the division of hotels and restaurants.

(e) **Prohibitions.**

1. Limited indoor dining and the associated provisions.
2. No package goods shall be sold from any bar, nor shall a package store be permitted upon the premises.

3. The sale of beers, wines and liquors shall be prohibited except during the time the restaurant is engaged in and open to the public for the serving of full course meals.
4. Intoxicating liquors must be sold by the drink only from such bar.

(2) ***Fast Casual Restaurant:***

- (a) ***Facility and Staff Requirements.*** Food menu items must be prepared in a kitchen facility as required by state regulatory bodies for the establishment type, that is located in a completely enclosed room, under roof of the main structure, or in an interior court, with food preparation staff available to prepare meals during all hours of operation.
- (b) ***Floor Plan Requirements.*** A floor plan that defines all areas and functions of a restaurant must be provided and shall include the following:
 1. A copy of any information submitted to and approved by the State or other regulatory body for licensure.
 2. The location and number of tables, chairs, or customer counters to accommodate the consumption of food or beverages by patrons.
 3. The maximum number of patrons is limited to 110 percent of the total number of seats at tables or customer counters where food or beverages are consumed, so long as the total number of persons does not exceed the Florida Building Code or Florida Fire Code.
 4. Areas designated for non-dining purposes, such as dance floors, recreational game areas, standing areas behind customer counters, etc. where drinks are permitted to be served to standing or seated patrons but where full course meals will not be served may be provided for the enjoyment of seated customers.
- (c) ***Ancillary Service Areas:*** Additional service areas may be allowed or further restricted by zoning district and include a barbeque pit stand, catering preparation areas, drive-throughs, drive-ins, and customer counters (“take out” or “walk-ups” area).
- (d) ***Limited Indoor Dining.*** Fast casual restaurants may provide limited indoor dining.
- (e) ***Prohibitions.***

1. Table service to customers.
2. Establishments with limited indoor dining are not permitted to serve alcoholic beverages.

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

(RRR) **Keeping of livestock.** The keeping, maintaining, or pasturing of horses, cattle, mules, goats, sheep, swine, poultry, or other livestock in the City of Delray Beach is prohibited except on property within the Agricultural (A) and Rural Residential (RR) Zone Districts and then only in compliance with provisions of those regulations.

(T) – (ZZZZ) (These subsections shall remain in full force and effect as adopted.)

Section 4. Chapter 4, “Zoning Regulations,” Article 4.4, “Base Zoning District,” Section 4.4.9, “General Commercial (GC) District,” Subsection (B), “Principal uses and structures permitted,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

(B) ***Principal uses and structures permitted.*** The following are allowed within the GC District as permitted uses, except as modified in the Four Corners Overlay District by Section 4.4.9(G)(3)(a).

(1) General retail uses and/or facilities, including, but not limited to:

(a) Antiques, arts and crafts, automotive parts, baked goods, books, carpet and floor covering, cheeses, beer, wine, liquor, confectioneries, cosmetics, meats, draperies and slipcovers, pharmacies, electrical fixtures and supplies, fabrics, fish, flowers and plants, fruits and vegetables, food, garden supplies, gifts, glassware, hardware and paints, home furnishings, ice cream, lawn care equipment, leather goods, luggage, medical and surgical equipment, music and musical instruments, nautical supplies, office furniture equipment and supplies, pets and pet supplies, photographic equipment and supplies, sewing supplies, sporting goods, toys, wearing apparel and accessories, appliances, bicycles, business machines, jewelry.

(2) Business, Professional, and Medical uses including, but not limited to:

(a) Interior decorating, medical and dental clinics, medical and dental laboratories, photographic studios, printing and publishing, business offices, professional offices, and medical offices.

(3) Contractor's Offices, including but not limited to:

- (a) Air conditioning, general contractor, electrical, painting, and plumbing; however, any outside storage of materials is prohibited.
- (4) Services and Facilities including, but not limited to:
 - (a) Auctions, barber and beauty shops and salons, caterers, dry cleaning limited to on-site processing for customer pickup only, dry cleaning and laundry pickup stations, financing e.g. banks and similar institutions including drive-through facilities, laundromats limited to self-service facilities, pet grooming, ~~restaurants including drive-in and drive-through~~, tailoring, tobacconist, vocational schools limited to arts and crafts, business, beauty, dancing, driving, gymnastics, photography, modeling, and karate-judo, small item repair, Neighborhood Electric Vehicle (NEV) sales, lease or rental transactions only (no inventory on-site for any purpose), and rental of sporting goods and equipment (such as but not limited to bicycles, skates, boogie boards). With the exception of bicycles with an electric-helper motor as defined in Section 72.02, Delray Beach Code of Ordinances, all rented sporting goods must be non-motorized.
 - (b) Abused spouse residence with 40 or fewer residents, galleries, broadcast studios, butcher shops, cocktail lounges, exercise facilities e.g. gyms and clubs, indoor shooting ranges, museums, libraries, newsstands, commercial or public parking lots and parking garages, theaters excluding drive-ins.
 - (c) Restaurants pursuant to Section 4.3.3(R).
- (5) Dwelling units in the same structure as commercial uses provided that: commercial uses must be provided on the ground floor; commercial uses on the ground floor must occupy no less than 25 percent of the total structure excluding square footage devoted to vehicular use; residential uses are not located on the ground level; residential uses and non-residential uses are physically separated and have separate accessways; and the residential density does not exceed 12 units per acre, except the Four Corners District which may have a free standing residential building as part of a multi-building unified master plan or the residential component may be a part of a single mixed use building. The density of the Four Corners Master Plan shall not exceed 30 dwelling units per acre and is subject to the provisions under Section 4.4.9(G)(3)(d)(4).
- (6) Astrologists, clairvoyants, fortune tellers, palmists, phrenologists, psychic readers, spiritualists, numerologists and mental healers, subject to the locational restrictions of Section 4.4.9(H)(3).

- (7) Community Residence housing four to ten individuals, except as required by state law, that (1) is at least 660 linear feet from the closest existing community residence housing four or more individuals as measured from the nearest property line of the proposed community residence to the nearest property line of the existing community residence, and (2) the operator or applicant is licensed or certified by the State of Florida to operate the proposed community residence, has certification from an appropriate national accrediting agency, or has been recognized or sanctioned by Congress to operate the proposed community residence.
- (8) Tattoo Establishments, pursuant to restrictions set forth in Section 4.3.3(ZB).
- (9) Urban Agriculture pursuant to regulations set forth in Section 4.3.3(D).
- (10) CBD oil establishments, pursuant to restrictions set forth in Section 4.3.3(CC).

Section 5. Chapter 4, “Zoning Regulations,” Article 4.4, “Base Zoning District,” Section 4.4.11, “Neighborhood Commercial (NC) District,” Subsection (B), “Principal uses and structures permitted,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

- (B) ***Principal uses and structures permitted.*** The following types of uses are allowed within the NC District subject to the limitations per Subsection (H) as a permitted use:
 - (1) Retail uses and/or facilities such as: convenience foods; household supplies; garden and lawn supplies; pharmacies; small appliance sales and repairs; baked goods; delicatessen goods.
 - (2) Provision of services such as: barber and beauty shops; dry cleaning limited to on-site processing for customer pickup only; dry cleaning and laundry pickup stations; vocational schools limited to arts and crafts, business, beauty, dancing, driving, gymnastics, photography, modeling, and karate-judo; financing e.g. banks and similar institutions excluding drive-through facilities; laundromats limited to self-service facilities; Neighborhood Electric Vehicle (NEV) sales, lease or rental transactions only (no inventory on site for any purpose), ~~dining at sit-down restaurants including takeout and ice cream parlors but excluding drive-in drive-through facilities~~; and newsstands.
 - (3) Business and professional offices.
 - (4) Urban Agriculture pursuant to regulations set forth in Section 4.3.3(D).
 - (5) Restaurants pursuant to Section 4.3.3 (R) but excluding drive-through facilities.

Section 6. Chapter 4, “Zoning Regulations,” Article 4.4, “Base Zoning District,” Section 4.4.13, “Central Business (CBD) District,” Table 4.4.13(A), “Allowable Uses and Structures in the CBD Sub-Districts,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

Table 4.4.13(A)—Allowable Uses and Structures in the CBD Sub-Districts					
	Central Core	Railroad Corridor	Beach Area	West Atlantic Neigh.⁵	South Pairs Neigh
General retail uses and/or facilities, as in GC district (4.4.9), including limited indoor dining with retail uses. ^{1,2}	P	P	P	P	P
Business, professional, and medical uses, as in GC district (4.4.9)	P	P	P	P	P
Services and facilities, as in GC district (4.4.9), excluding drive- through facilities	P	P	P	P	P
Multiple-family dwellings ³	P	P	P	P	P
Astrologist, clairvoyants, fortune tellers, palmists, phrenologists, psychic reads, spiritualists, numerologists and mental healers as in GC district (4.4.9)	-	-	-	-	P
Community residences	See 4.4.13(C)(4)(a)				
Nursing homes, abused spouse residences, continuing care facilities, and assisted living facilities that do not comport with the definition of "community residence"	P	P	P	P	C
Live/work units (see 4.3.3(KKK))	P	P	P	P	P
Hotels, motels, and residential-type inns ³ (see 4.3.3(M) and 4.3.3 (X))	P	P	P	C	C
Bed and breakfast inns (see 4.3.3 (Y))	P	P	P	C	C
Public Parking Garages, as mapped on a Regulating Plan	P,S	P,S	P,S	P,S	P,S
Fabrication and/or Assembly	-	P	-	-	-
Wholesaling, Storage, and Distribution ⁴	-	P	-	-	-
Contractor and trade services	-	P	-	-	P
Automobile brokerage, including vehicle display within an enclosed structure	-	P	-	-	-
Tattoo Establishments (see 4.3.3(ZB) (Ord. No. 33-16, § 4, 11- 15-16)	P,A	P,A	P,A	P,A	<u>P,A</u>
CBD Oil Establishments (see 4.3.3 (CC))	P,A	P,A	-	-	-
Family day care homes (see 4.3.3(T))	A	A	A	A	<u>A</u>
Home-based businesses (see 4.3.3(K))	A	A	A	A	<u>A</u>
Mechanical parking lifts (see 4.6.9(D)(11) and 4.6.9(F)(4))	A,S	A	A,S	A,S	<u>A,S</u>
Parking areas, passenger drop-off, loading/unloading	A,S	A,S	A,S	A,S	<u>A,S</u>
Automated parking garages	-	S	-	-	-
Refuse and service areas	A,S	A,S	A,S	A,S	
Recreational facilities (for a multiple-family development)	A	A	A	A	<u>A</u>
Services and repair (incidental to the principal use)	A,S	A	A,S	A,S	<u>A,S</u>
Single-family dwelling (occupied by owner, proprietor, or employee of the principal use)	A	A	A	A	<u>A</u>
Storage of inventory (not shared or leased independent of the principal use)	A,S	A	A,S	A,S	<u>A,S</u>
Automobile repair	-	C	-	-	-
Neighborhood Automotive Rental facility (See 4.3.3(C))	-	-	-	-	C
Child care Facilities (see 4.3.3(E)) and adult day care facilities	C	C	C	C	C

(see 4.3.3(F))					
Commercial recreational facilities, such as bowling alleys, skating rinks, and amusement game facilities	C	C	C	C	C
Drive-through facilities (serving banks, financial institutions, retail uses, etc.) ² See 4.4.13(J)(7)(a)	C	C	C	C	C
Food Preparation and/or Processing including bakeries and catering	-	C	-	-	-
Funeral homes, including accessory uses such as a chapel or crematory	C	C	C	C	C
Gasoline stations (See 4.4.13(J)(7)(b) and/or car washes (See 4.4.13(J)(7)(c))	C	C	-	-	C
Large family child care homes (see 4.3.3(TT))	C	C	C	C	C
Dry-cleaning Processing Plants	-	C	-	-	-
Segway tours and Segway sales (see 4.3.3(ZZZZ))	C	C	C	C	C
Theaters, excluding drive-ins	C	C	C	C	C
Pet Services [See 4.3.3(W)]	C	C	C	C	C
Pet Hotels [see 4.3.3(W)]		C			C
Veterinary Clinics	C	C	C	C	C
24-hour or late-night businesses, within 300 feet of residential zoned property [see 4.3.3(VV)]	C	C	C	C	C
Urban Agriculture [4.3.3 (D)] excluding outdoor Urban Farms	P, A	P, A	-	P, A	P,A
Outdoor Urban Farms [4.4.3(D)]	C	C	C	C	C
Clubs and Lodges as in GC (4.4.9)	-	-	-	-	C
Flea Markets, Bazaars as in GC (4.4.9)	-	-	-	-	C
Sales and service of all terrain vehicles and personal watercraft as in GC (4.4.9)	-	-	-	-	C
Vehicle care (See 4.4.13(C)(4)(f)(5))	-	-	-	-	C
Churches or places of worship (See 4.4.13(C)(4)(c))	-	-	-	C	C
LEGEND:P = Principal Use A = Accessory Use C = Conditional Use - = Prohibited Use S = Secondary Street Use					

1 Sales of automotive parts, lawn care equipment, firearms, or secondhand material (other than verifiable antiques) are not allowed on properties facing a designated Required Retail Street on the Regulating Plan or anywhere within the West Atlantic Neighborhood.

2 ~~Fast Casual and Bona fide Restaurants with drive-through facilities are prohibited within the CBD. Drive-thru and Drive-in restaurants are not permitted within the CBD.~~

3 For density limits, see Table 4.4.13(C).

4 Not self-storage facilities; products and materials shall not exceed 55 gallons of any substance which is listed on the Generic Substances List of the Palm Beach County Wellfield Protection Ordinance (Ref.: Palm Beach County LDC, Article 9, Section 9.3)

5 See Section 4.4.13(C)(4)(a) for limits on commercial use locations in the West Atlantic Neighborhood Sub-district.

Section 7. Chapter 4, “Zoning Regulations,” Article 4.4, “Base Zoning District,” Section 4.4.13, “Central Business (CBD) District,” Subsection (K), “CBD Review and Approval Process,” Subsection (4), “Conditional uses,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

- (4) ***Conditional uses.*** Conditional uses listed on Table 4.4.13(A) may be considered pursuant to the provisions of Section 2.4.5(E). In addition, the following regulations apply:

(a) ***Drive-through facilities.***

1. Restaurants with drive-through facilities ~~Drive-in or drive-through restaurants~~ are not permitted the CBD zoning district boundaries.
2. On Primary Streets, drive through facilities serving banks and other commercial uses shall have the drive through window(s) and stacking area located behind buildings. On Secondary Streets, drive through facilities may be located to the rear or side of buildings.

(b) ***Gasoline stations.*** Gasoline Stations are not permitted on Primary Streets. In addition to the standards in 4.3.3(J), the following configuration is required.

1. A ground-story shop must be located along a street, with the gas pumps located to the rear of the lot as illustrated in Figure 4.4.13-K-1. No more than eight dispensing locations are permitted.
2. The shop shall have the primary entrance facing and directly accessible from the street; an additional entrance facing the parking lot is permitted.
3. Gasoline Stations may be one story in height.

Figure 4.4.13-K-1



(c) ***Car Wash establishments.*** Car wash establishments, with automatic/mechanical systems shall not be located east of the Intracoastal Waterway or on lots which front along Primary Streets. Further, this use must be established on property with a minimum lot area of 20,000 square feet.

- (d) ***Automotive repair and detailing.*** Automobile repair and automobile detailing may not be located north of S.E. 1st Street or south of SE 6th Street, extended. Conditional use approval may not be granted for a new automobile repair facility, or for the expansion of an existing facility, unless it is specifically demonstrated that off-street parking is available in accordance with the requirements of Section 4.6.9.
- (e) ***Additional Application Requirements.*** Applications for conditional use approval pursuant to Section 4.4.13(I) must include, in addition to the standard application items of 2.4.3(A), a site and development plan (including landscaping, elevations, and floor plans) of sufficient detail to determine that the applicable performance standards are being met. Final approval of the detailed site plan is by the SPRAB or HPB.
- (f) ***Modifications.*** The process for modification of a conditional use and site plan approved pursuant to Section 4.4.13(I) is as follows:
1. Modifications to any aspect of the plan that was a basis for determining compliance with the applicable performance standards shall be processed as a modification to the conditional use approval.
 2. Modifications to the plan that do not affect the application of the performance standards may be processed as a site plan modification.

Section 8. Chapter 4, “Zoning Regulations,” Article 4.4, “Base Zoning District,” Section 4.4.13, “Central Business (CBD) District,” Table 4.4.13(L) “Minimum Number of Off-street Parking Spaces Required in the CBD,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

<i>Table 4.4.13(L)</i> <i>Minimum Number of Off-street Parking Spaces Required in the CBD</i>	
<i>Commercial Uses</i>	
Hotels/Motels ¹	0.7 space per guest room plus 1 space per 800 sf. of meeting rooms and shops
Business and Professional Office <10,000 sf	1 space per 500 sf. of net floor area
Business and Professional Office >10,000 sf located more than 750 feet from a public parking garage or Planned Tri-Rail Coastal Link station	1 space per 300 sf. of net floor area
Business and Professional Office >10,000 sf located within 750 feet of a public parking garage or Planned Tri-Rail Coastal Link station	1 space per 500 sf. of net floor area
Retail and Commercial Uses, <u>including limited indoor dining</u>	1 space per 500 sf. of gross floor area

Restaurants and lounges (including those located within hotels/motels) NOT in the Atlantic Avenue Parking District. ³	6 spaces per 1,000 sf. of gross floor area
Restaurants and lounges (including those located within hotels/motels) in the Atlantic Avenue Parking District ³	12 spaces per 1,000 sf. for the first 6,000 sf. Plus 15 spaces per each additional 1,000 sf.
<i>Residential</i>	
Community Residence	The number of off-street spaces required by Section 4.6.9(C)(7)(l) of these Land Development Regulations
Efficiency Dwelling Unit	1 space per unit
One Bedroom Dwelling Unit	1.25 spaces per unit
Two or More Bedroom Dwelling Unit	1.75 spaces per unit
Guest Parking shall be provided cumulatively as follows	
- For the first 20 units	0.50 spaces per unit
- For units 21-50	0.30 spaces per unit
- For units 51 and above	0.20 spaces per
Live/Work Units	2 spaces per unit
<i>Alternative Fuel Parking Spaces</i>	
Residential	3% of Required Parking Spaces
Commercial	3% of Required Parking Spaces

¹ When parking spaces are not required, but are provided, then 3% of those provided shall be an Alternative Fuel space.

² Including establishments that qualify for either limited indoor dining pursuant to Section 4.4.3(R) or a sidewalk café pursuant to Section 6.3.3.

³ Excluding establishments with limited indoor dining pursuant to Section 4.4.3(R) or a sidewalk café pursuant to Section 6.3.3.

Section 9. Chapter 4, “Zoning Regulations,” Article 4.4, “Base Zoning District,” Section 4.4.14, “Resort/Tourism (RT) District,” Subsection (B), “Principal uses and structures permitted” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

(B) ***Principle use and structures permitted.*** The following types of use are allowed within the RT District as a permitted use:

- (1) Residential Facilities for nonpermanent occupancy including Bed and Breakfast Establishments, Hotels, Motels, and Residence Inns.
- (2) Entertainment, Cultural and Recreation Facilities including Bowling (indoor and lawn alleys), Dinner Theaters, Exercise Facilities, Golf Courses, Handball and Racquetball Facilities, Tennis and Swimming Facilities, Theater for the Performing Arts, Museums, Art Galleries, Amusement Game Rooms.
- (3) Conference Facilities including meeting rooms, provisions for catering into the facilities, and business offices.
- (4) Service and Specialty Uses including Beauty and Barber Shops, fast casual establishments without drive-through facilities, ~~Delicatessens, Ice Cream Parlors,~~ Gift Shops, Newsstands, and specialty food shops (including on-site preparation and service).

Section 10. Chapter 4, “Zoning Regulations,” Article 4.4, “Base Zoning District,” Section 4.4.14, “Resort/Tourism (RT) District,” Subsection (C), “Accessory uses and structures permitted,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

(C) ***Accessory uses and structures permitted.*** The following uses are allowed when a part of, or accessory to, the principal use:

- (1) Parking Lots;
- (2) Refuse and Service Areas;
- (3) ~~Restaurants-Bars;~~ and Lounges;
- (4) Instructional classes associated with permitted entertainment and recreational uses.
- (5) Sale of exhibits and accessory items associated with principalle entertainment and recreational uses.
- (6) Bona fide Restaurants pursuant to LDR Section 4.3.3(R).

Section 11. Chapter 4, “Zoning Regulations,” Article 4.4, “Base Zoning District,” Section 4.4.15, “Planned Office Center (POC) District,” Subsection (D), “Conditional uses and structures allowed,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

(D) ***Conditional uses and structures allowed.*** The following uses are allowed as conditional uses within the POC District:

- (1) Restaurants uses pursuant to Section 4.4.3(R), excluding ~~drive-in and drive-through facilities.~~ drive-through facilities.
- (2) Child care and adult day care.
- (3) Residential all suite lodging (residential inns).
- (4) Health spas, fitness centers, and exercise facilities which are open to the general public.

Section 12. Chapter 4, “Zoning Regulations,” Article 4.4, “Base Zoning District,” Section 4.4.24, “Old School Square Historic Arts District (OSSHAD),” Subsection (B), “Principal uses and structures,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

(B) ***Principal uses and structures.*** The following types of uses are allowed within the OSSHAD as a permitted use:

- (1) Single family detached dwellings.
- (2) Duplex structures.
- (3) Business, Professional, Medical and Governmental Offices.
- (4) Retail uses and/or facilities through specialty shops (single purpose businesses) such as: bath shops, book stores, gift shops, florists, hobby shops, kitchen shops, boutiques, bicycle shops, excluding liquor stores, convenience stores and pharmacies.
- (5) Arts related businesses such as craft shops, galleries, and studios within which is conducted the preparation of, display of, and/or sale of art products such as antiques, collectibles, custom apparel, jewelry, paintings, photography, picture framing, pottery, sculpture, stained glass.
- (6) Educational and/or Instructional activities including training, vocational, or craft schools, the arts, personal development, and libraries, museums, and social and philanthropic institutions.
- (7) ~~Restaurants of a sit down nature such as a~~ Restaurants pursuant to Section 4.3.3(R), cafe, snack shop, full service dining but excluding any drive-through facilities. ~~and/or drive through facilities or features.~~
- (8) Providing of personal services such as barbershops, beauty shops, salons, cosmetologists.
- (9) Bed and Breakfast Inns, subject to the provisions of LDR Section 4.3.3(Y).
- (10) Catering services not associated with a restaurant, subject to the special regulations of Section 4.4.24(H).
- (11) Community Residence housing four to ten individuals, except as required by state law, that (1) is at least 660 linear feet from the closest existing community residence as measured from the nearest property line of the proposed community residence housing four or more individuals to the nearest property line of the existing community residence, and (2) the operator or applicant is licensed or certified by the State of Florida to operate the proposed community residence, has certification from an appropriate national accrediting agency, or has been recognized or sanctioned by Congress to operate the proposed community residence.

- (12) Within the following described areas, the uses allowed as permitted uses in Section 4.4.13(B) pursuant to the base district and special regulations of the Central Business District regulations shall also be allowed in the OSSHAD:
- (a) Lots 13—16, Block 60;
 - (b) Lots 1—4, Block 61;
 - (c) Lots 1—7, Lots 16—18 and 19-24, Block 69;
 - (d) Lots 23-25, Block 70;
 - (e) Lots 7—8, and the South 34.75 feet of Lot 6, Block 75; and
 - (f) Lots 1—6, Block 76.
- (13) Assisted Living Facilities that do not comport with the definition of “community residence.”
- (14) Nursing Homes.
- (15) Tattoo Establishments, pursuant to restrictions set forth in Section 4.3.3(ZB).

Section 13. Chapter 4, “Zoning Regulations,” Article 4.6, “Supplemental District Regulations,” Section 4.6.9, “Off-street parking regulations,” Subsection (B), “Applicability,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

(B) ***Applicability.***

- (1) Off-street parking facilities ~~shall be provided in the following situations~~ are required for:
- (a) ~~For any~~ Any new building ~~constructed or development;~~
 - (b) ~~For any new category of use established including a new conditional use~~ Any change in use for an existing site with an established development or approved use;
 - (c) ~~For any~~ Any addition or ~~enlargement~~ expansion of an existing building or approved use;
 - (d) ~~For any~~ Any change in the occupancy of an existing building or the manner in which a use is conducted that would result in additional parking spaces being required.

- (2) For items (c) and (d) from above, ~~the~~ additional parking spaces shall be required only for such addition, ~~enlargement~~ expansion, or change in use, and not for the entire building or use, unless required as a condition of approval ~~associated with the approval of~~ for the addition, enlargement expansion, or change in use.
- (3) When existing parking is ~~diminished~~ eliminated by an addition, ~~or enlargement expansion, or other site improvements~~ and such parking ~~had been~~ was previously required, or would be required if the use were established at ~~this point in the time of application submission, such~~ the same amount of eliminated parking spaces must be replaced and be in addition to those spaces required for the addition, expansion, other site improvements, or change in use. ~~or enlargement.~~
- (4) Notwithstanding the foregoing, effective January 1, 2005, if private land is acquired by a governmental entity for parking or park purposes, the parking spaces attributed to the demand created by the building square footage and use that existed on the land acquired by the governmental entity (less the number of spaces that existed on the property so acquired) shall be credited to land owned by private owner(s) if the land owned by the private owner(s) is located within 300 feet of the land acquired by the governmental entity for parking or park purposes.
- (5) The requirements of this Section shall apply for temporary uses as well as permanent uses.

Section 14. Chapter 4, "Zoning Regulations," Article 4.6, "Supplemental District Regulations," Section 4.6.9, "Off-street parking regulations," Subsection (C), "Number of parking spaces required," Sub-subsection (3), "Requirements for commercial uses," of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

- (3) ***Requirements for commercial uses.***
 - (a) ***General commercial uses.*** Shall provide four and one-half spaces per 1,000 square feet of gross floor area which includes retail floor area, associated warehouse and storage floor area, and employee and management facilities.
 - (b) ***Convenience stores with associated gasoline sales.*** Shall provide four and one-half spaces per 1,000 square feet of gross floor area of the convenience store and any kiosk or cashier station.
 - (c) ***Gasoline stations.*** With or without convenience food sales shall provide four and one-half spaces per 1,000 square feet of non-repair gross floor area and shall provide four spaces per service bay or lift.

- (d) ***Restaurants.*** ~~Inclusive of drive-ins, drive-thru, snack shops, night clubs, lounges shall provide 12 spaces per 1,000 square feet of gross floor area up to 6,000 square feet and then 15 spaces per 1,000 square feet of gross floor area over the initial 6,000 square feet. All other uses (deli, sandwich shops, coffee shops, sub shops, etc.) not classified as a restaurant, but otherwise qualifying for a sidewalk café permit which have no inside seating shall be considered a general commercial use with respect to parking requirements. All other uses (deli, sandwich shops, coffee shops, sub shops, etc.) which have inside seating shall be considered a restaurant use with respect to parking requirements.~~

1. Bona Fide Restaurants and Fast Casual Restaurants, or any similar establishment, excluding Fast Casual Restaurants with limited indoor dining, shall provide 12 spaces per 1,000 square feet of gross floor area.
2. Fast casual establishments without indoor seating or with limited indoor dining shall be considered a general commercial use with respect to parking.
3. Restaurant seating located within an approved sidewalk café is subject to the requirements of Section 6.3.3(F).

- (e) ***Shopping centers.*** Spaces required based upon size of center per gross leasable floor area, irrespective of uses:

• 25,000 to 400,000 square feet	provides: 4/1,000 square feet of gross floor area
• 400,000 to 600,000 square feet	provides: 4.5/1,000 square feet of gross floor area
• greater than 600,000 square feet	provides: 5/1,000 square feet of gross floor area

- (f) ***Vehicle sales and rental.*** Including auto sales, auto rental agencies, recreational vehicle sales and rental, and truck sales and rental, shall provide four spaces per 1,000 square feet of total building(s) gross floor area, except indoor display areas. Required parking spaces shall be designated for employee, customer, and/or service use at the standard of, at least, one and one-half spaces per service bay and two spaces per 1,000 sq.ft. of gross floor area (less indoor display area). Any remaining spaces may be used for display purposes.

- (g) ***Personal service providers.*** (Beauty Salons, Spas, etc.): Shall provide four and one-half spaces per 1,000 square feet of gross floor area in buildings up to 5,000 square feet and four and one-half spaces per 1,000 square feet of gross floor area plus one-half spaces per work station in buildings greater than 5,000 square feet as it pertains to the personal service provider uses. (Note: Work stations providing manicure services which include both manicure table and pedicure chair shall be calculated as one work station for each table and chair combined).
- (h) Stand alone bars, night clubs and cocktail lounges shall provide 12 spaces per 1,000 square feet of gross floor area.

Section 15. Appendix A, “Definitions” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

DRIVE-THROUGH FACILITIES. An ancillary or principal facility to provide goods and/or services through a window by an attendant, or through an automated machine, to persons in a vehicle.

~~DRIVE IN RESTAURANT OR REFRESHMENT STAND. Any place or premise where provision is made on the premises for the selling, dispensing, or serving of food, refreshments, or beverages in automobiles or on the premises or in other than a completely enclosed building on the premises. A restaurant which provides drive in facilities of any kind in connection with regular restaurant activities shall be deemed a DRIVE IN RESTAURANT for purposes of these zoning regulations. A barbecue stand or pit having characteristics noted in this definition shall be deemed a DRIVE IN RESTAURANT.~~

~~DRIVE THRU RESTAURANT. Any place or establishment where provision is made on the premises for the selling, serving of food, or refreshments and beverages, and dispensing of such items in a manner where the customer orders from his vehicle, picks up his order, and leaves the premises. Such a customer may not eat or drink the food, refreshments, or beverages on the premises.~~

RESTAURANT (FAST CASUAL). A type of restaurant establishment where selling, dispensing, or serving of food, refreshments, or beverages is prepared or made to order for take-out or seated dining without table service and derives more than 51 percent of its sales and service from food and non-alcoholic beverages.

LIMITED INDOOR DINING. A fast casual or retail establishment with no more than eight seats provided indoors for customers to consume food or beverages prepared on site. Establishments that meet the definition will be treated as retail for the purpose of zoning classification. Retail establishments providing limited indoor dining shall meet Florida Statutory and regulatory requirements based on the establishment food service license.

RESTAURANT (BONA FIDE).

~~(a) A bona fide restaurant is an establishment primarily advertised as a restaurant with a complete menu that derives more than 51 percent of its sales and service from food and non-alcoholic beverages. shall mean an establishment engaged primarily in the service of food where the sale or service of alcoholic beverages is incidental to the sale and service of food. A cafeteria or fast food establishment shall be deemed a bona fide restaurant for the purposes of zoning classification. All other establishments must meet the following criteria:~~

~~1. A bona fide restaurant must, during all hours of operation, continually offer food service consisting of full course meals;. Pursuant to Florida Statutes as may be amended from time to time, full course meals shall include a salad or vegetable, entrée, a beverage, and bread.~~

~~a. Full course meals shall include a salad or vegetable, entrée and dessert.~~

~~2. A bona fide restaurant must have full kitchen facilities as required by state regulatory bodies for the establishment type, which that are located in a completely enclosed room, under roof of the main structure, or in an interior court, and with food preparation staff capable of preparing and serving full course meals during all hours of operation.~~

~~3. A bona fide restaurant must have a customer service area consisting of tables, chairs, or customer counters. The tables or customer counters within the customer service area must be of adequate size to accommodate the service of full course meals.~~

~~4. In order for tables, chairs or customer counters to be included in the customer service area, the service of full course meals must be available at each seat or chair at each table or customer counter in the customer service area in accordance with the following:~~

~~a. The total number of seats or chairs at the tables, customer counters and bars within the customer service area must be sufficient to accommodate the maximum occupant load of the restaurant;~~

~~b. The full occupant load shall be determined in accordance with the provisions of the standard Florida Building Code or its successor code.~~

~~5. A bona fide restaurant shall derive no less than fifty one percent (51%) of its gross food and beverage revenue from the sale of food and non alcoholic beverages.~~

Section 16. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 17. Should any section or provision of this ordinance or any portion thereof, any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

Section 18. Specific authority is hereby given to the City Clerk to codify this Ordinance.

Section 19. 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 the ____ 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