

ORDINANCE NO. 41-22

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, BY AMENDING CHAPTER 4, "ZONING REGULATIONS," ARTICLE 4.6 "SUPPLEMENTAL DISTRICT REGULATIONS," SECTION 4.6.7, SUBSECTION (F), "SIGNS REQUIRING PERMITS," TO UPDATE TERMINOLOGY FOR CONSISTENCY WITH CURRENT DEPARTMENT TITLES, TO DELETE SECTION 4.6.7(F)(3)(e), "MURALS AND SIGNS WITHIN MURALS," TO REMOVE DUPLICATIVE REFERENCES FOR PROCESSING MURAL APPLICATIONS; BY AMENDING CHAPTER 8, "SPECIAL IMPLEMENTATION PROGRAMS", ARTICLE 8.5, "PUBLIC ARTS PROGRAM", SECTION 8.5.3, "MURALS" TO ALLOW MURALS IN MIXED USE RESIDENTIAL OFFICE AND COMMERCIAL (MROC), NEIGHBORHOOD COMMERCIAL (NC), GENERAL COMMERCIAL (GC), PLANNED COMMERCIAL (PC), PLANNED OFFICE COMMERCIAL (POC), PROFESSIONAL OFFICE DISTRICT (POD), OPEN SPACE AND RECREATION (OSR), OR SPECIAL ACTIVITIES DISTRICT (SAD), AND TO ALLOW THE PLACEMENT OF MURALS ON FLAT TOP ROOFS AND TOP DECKS OF PARKING GARAGES; PROVIDING FOR A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AUTHORITY TO CODIFY, AND PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, on August 26, 2020, the City Commission of the City of Delray Beach adopted Ordinance No. 22-20, approving regulations governing murals; and

WHEREAS, since the adoption of Ordinance No. 22-20, the City has determined that additional regulations regarding preservation and maintenance of murals and expansion of the zoning districts where murals are permitted would benefit the City; 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 October 17, 2022 and voted 6 to 1 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 ratified and 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 4.6., "Supplemental Districts Regulations", Section 4.6.7, "Signs", Subsection (F), "Signs Requiring Permits" of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

(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 ~~Sign Administrator~~ Development Services Department under the direction of the ~~Chief Building Official~~ 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 conform in all respects to the provisions of Subsection (E) and (K) of this Section.
 - (c) ***Special purpose signs.*** Which comply with the requirements of Subsection (F)(3).
- (2) ***Master sign and blanket sign programs.***
 - (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.
 - (b) 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. 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 shall be administratively approved.

- (c) Nothing contained herein shall prevent diversity and creativity of individual signs in the Master Sign Program.

(3) ***Special purpose signs and signing.*** Permits for the following signs may be issued administratively provided that the provisions contained herein are complied with.

- (a) ***Gasoline pricing signs.*** Signs may advertise the price of gasoline subject to the following restrictions:

1. Not more than 12 square feet per sign face.
2. If free standing, it shall not exceed five feet in sign height.
3. If a part of a permanent free standing sign, the price sign shall be included in the area of the permanent sign.
4. Once sign is permitted per frontage with a maximum of two signs per site.
5. Signs placed on pumps shall not exceed three square feet per sign face nor a total of six square feet per sign.

- (b) ***Grand opening banner.*** One banner may be placed on the building of a newly opened business pursuant to the following:

1. Display is limited to four weeks.
2. The banner shall not exceed an area of 50 square feet.
3. The banner may not be more than 15 feet above the grade, and must be placed on the building of the business, in the front of the business.
4. Banners shall be made of color fast material.

- (c) ***Historic signing.*** Signs which are building mounted or free-standing which provide information of historical value. Said signing shall not exceed six feet above grade when free-standing and shall not exceed three square feet in area in any circumstance. Such signing shall not be permitted until approval has been gained from the Historic Preservation Board.

1. ***Maintenance of nonconforming nostalgic signs.***

- (i) Signs that have an historic or nostalgic appeal, and constitute artistic expression, and not solely advertising may be exempted from the removal requirements if a recommendation by the Historic Preservation Board is approved by the City Commission. In considering whether to recommend that the existing nonconforming sign be designated as nostalgic, the Historic Preservation Board shall consider the sign's value as a part of the historical, cultural, aesthetic, and architectural heritage of the city, state, or nation. The Historic Preservation Board shall review the criteria contained in Section 4.5.1, of the Land Development regulations prior to making its recommendation.
 - (ii) An owner of property on which an existing nonconforming sign is located may request the Historic Preservation Board to recommend to the City Commission that the existing nonconforming sign be designated as a "nostalgic sign."
 - (iii) Any existing nonconforming sign designated as a nostalgic sign must be maintained in good condition. If at any time the sign becomes unsightly, or becomes a danger to the public health, safety, or welfare, the City Commission, following notification to the owner, may remove the nostalgic designation and set a date by which time the sign must be removed.
- (d) ***Drive thru window signs.*** Signs used by businesses in conjunction with service at a drive-thru window may be permitted as long as the size of the menu board does not exceed seven feet in height, nor 24 square feet in size. A maximum of two signs per drive thru window.
- ~~(e) Murals and signs within murals. A large painting or drawing affixed to the wall of a building located in commercially zoned districts shall be subject to approval by the Site Plan Review and Appearance Board or the Historic Preservation Board.~~
- ~~(f)~~(e) ***Special event non-roadway banner signing.*** Special signing, in accordance with this Subsection, may be allowed by the Chief Building Official or his/her designee, for special events if it is determined that the sign type meets the following criteria:
- 1. the sign provides notice to the public of a public meeting or other public event,
 - 2. the sign is temporary and for a limited time, and
 - 3. the sign, if allowed for a limited time, must meet the following criteria:
 - (i) the sign will not conceal or obstruct adjacent land uses or signs,

- (ii) the sign will not conflict with the principal permitted use of the site or adjoining sites,
 - (iii) the sign will not interfere with, obstruct vision of or distract motorists, bicyclists or pedestrians, and
 - (iv) the sign will be installed and maintained in a safe manner. The approval, or disapproval, of such sign shall not be based on the content of the message contained (i.e., the viewpoint expressed) on such sign. The Chief Building Official or his/her designee shall render a decision within 14 days after an application is made for utilizing this sign type for a special event. Such a decision shall be deemed an administrative interpretation and any person adversely affected has the right to appeal the decision to the City Manager.
4. Each sign limited to less than twenty square feet (20 sq.ft.) in area;
 5. Allowed 14 days prior to the event and must be removed by the second day after the event.

~~(g)~~(f) ***Special event roadway banner signing.***

1. ***Roadway banner signs.*** May be approved and issued by the Sign Administrator under the direction of the Director of Community Improvement, for special events. Such signing shall be subject to the following standards:
 - (i) The Roadway Banner Sign must be no more than three feet in height by 24 feet in length, and placed at least 15 feet above the surface of the roadway on City installed poles. The Roadway Banner sign must be constructed with a standard vinyl awning material and meet wind load requirements.
 - (ii) The text of a roadway banner shall be limited to the name of the special be limited to the name of the special event, the date or dates of the event and the name or logo of the City and the name or logo of the association or organization co-sponsoring the event.
 - (iii) Display of the Roadway Banner Sign will be limited to a maximum of 14 days prior to the event and must be removed by no later than two days after the event.
 - (iv) Roadway Banner Signs will only be allowed to be displayed at the following intersections within the City limits and on City installed poles:

- NE 1st Avenue and East Atlantic Avenue;
 - Pineapple Grove Way and East Atlantic Avenue within the arch area;
 - Swinton and East Atlantic Avenue; and
 - NE 5th Avenue and West Atlantic Avenue.
- (v) the sign will not conceal or obstruct adjacent land uses or signs,
- (vi) the sign will not conflict with the principal permitted use of the site or adjoining sites,
- (vii) the sign will not interfere with, obstruct vision of or distract motorists, bicyclists or pedestrians, and
- (viii) the sign will be installed and maintained in a safe manner. The approval, or disapproval, of such sign shall not be based on the content of the message contained (i.e., the viewpoint expressed) on such sign. The Chief Building Official or his/her designee shall render a decision within 14 days after an application is made for utilizing this sign type for a special event. Such a decision shall be deemed an administrative interpretation and any person adversely affected has the right to appeal the decision to the City Manager.

~~(h)~~(g) ***Subdivision identification signs.*** Residential subdivision identification signs shall be located only at the entrance to the subdivision and subject to the following standards:

1. Such signs may be either one double-faced sign or two signs where there are two walls at the entrance and where the signs are permanently affixed to the walls at each entrance of the subdivision;
2. Each sign area shall be no greater than 36 square feet in area;
3. Such subdivision entrance signs are permitted within all residential zoning districts;
4. Such subdivision entrance signs may be erected within rights-of-way or median strips adjacent to the subdivision if approved by the City. A subdivision sign may also be located within the setbacks of private property within the subdivision or adjacent to the subdivision or adjacent to the subdivision within the guidelines set forth in 4.6.7(E)(3), if such sign was in existence as of July 1, 1988.

5. Any such sign erected within a right-of-way or setback shall be at least ten feet from a paved roadway and signs located within a median shall be at least five feet from any paved roadway;
6. Any such signs approved for location within the right-of-way or median, if such right-of-way or median is not within the jurisdiction of the City, shall obtain written permission from the governmental entity controlling the right-of-way or median to erect the sign in a requested and approved location;
7. Any signs proposed to be located on adjacent private property shall be approved and permitted by the owners of the adjacent property. Any such signs lying on private property shall be considered an additional permitted sign without regard to other applicable sections of this code; and
8. All signs proposed to be located within a right-of-way or median shall be reviewed and approved by the City Engineer or appointed designee for compliance with this section.

(h) Temporary identification signs. Temporary identification signs shall be subject to the following standards:

1. Freestanding Sign: One sign per street frontage, non-illuminated, with a sign area of not more than 32 square feet, nor more than seven feet in height.
2. Sign Located on a Building: One sign per building frontage, non-illuminated with a sign area of not more than 32 square feet.
3. The sign may be installed at the time of submission of a building permit application. It must be removed upon expiration of building permit or building permit application or when the project obtains a Certificate of Occupancy.

(i) Valet parking signs. Signs for Valet Parking shall be allowed subject to the following restrictions:

1. One pole mounted sign per approved Valet Queue, meeting the requirements of valet parking agreements.
2. Valet Parking signs shall be manufactured and installed by the City. The sign area shall not exceed six square feet in area. Such sign shall be pole mounted and inserted in a ground sleeve. The location of such sign shall be determined by the City. The sign must be removed and stored inside the business daily during business hours when the approved valet queue is not in use.

3. Traffic control cones may be used for queuing purposes, however they shall not contain any additional signage or markings.

Section 4. Article 8.5, “Public Arts Program”, Section 8.5.3, “Murals”, Subsection (A), “Location” of the Land Development Regulations of the City of Delray Beach, Florida, is amended as follows:

(A) ***Location.***

- (1) Murals may be proposed on a façade, flat top roof, parking deck, perimeter walls or fences, or dumpster enclosures of any building or structure on a property ~~that is not~~ located in a historic district or individually designated on the Local Register of Historic Places but that:
 - (a) Faces a railroad right-of-way;
 - (b) Faces Interstate 95;
 - (c) Is located within the Central Business District (CBD), Community Facilities (CF), Industrial (I), Light Industrial (LI), ~~or~~ Mixed Industrial and Commercial (MIC), Mixed Use Residential Office and Commercial (MROC), General Commercial (GC), Planned Commercial (PC), Neighborhood Commercial NC), Planed Office Commercial (POC), Professional Office District (POD), Open Space and Recreation (OSR), or Special Activities District (SAD) zoning districts;
 - (d) Is located within the Osceola Park Redevelopment Plan Update area; or,
 - (e) Is located on or under a bridge.
- (2) Murals may be proposed on properties located in a historic district or that are individually designated on the Local Register of Historic Places that have commercial use but only on accessory structures such as perimeter site walls and dumpster enclosures but shall not be located on facades facing rights-of-way.

(B) **Design and installation.** Each mural shall be designed and installed with techniques and/or materials that do not permanently damage the facade of the building. Murals are also subject to compliance with the applicable requirements of the Florida Building Code any other applicable local, state, or federal regulations.

- (1) Properties located in a historic district or that are individually designated on the Local Register of Historic Places must also comply with the Delray Historic Preservation Design Guidelines and Secretary of the Interior’s Standards for Rehabilitation.

- (2) For properties that are designated on the National Register of Historic Places, the property owner shall also confer with the State of Florida, Division of Historical Resources to obtain guidance regarding a proposed mural.

(C) **Placement and Design requirements.** ~~A mural may only be placed on the façade of a building, site perimeter, walls or fences, or on accessory structures for properties not located in a historic district or that are not individually designated on the Local Register of Historic Places.~~ All murals must also meet the following requirements:

- (1) **Coverage, Size, and Scale.** Murals shall be proportionate in size and scale to the building façade. A mural may cover 100 percent of the wall, provided it does not paint over windows.
- (2) **Façade Features.** Murals shall be positioned on the façade in a manner that respects architectural features. Murals shall not cover windows or mask architectural details in a manner that detracts from the architecture of the building.
- (3) **Mural Limitations.** Each facade or surface of a building or accessory structure shall have only one mural. A consistent image or theme may continue across contiguous walls; however, each facade or surface included in the mural shall require a separate mural permit.
- (4) **Mural text size.** The mural shall be predominantly pictorial, with text limited to no more than 5 percent of the proposed mural size.
- (5) **Signage and Commercial Messaging.** Signage and commercial messaging in murals are regulated in accordance with Section 4.6.7.
- (6) **Illumination.** Murals may be illuminated only by indirect lighting. 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. Internal illumination, blinking lights, and flashing lights are prohibited.
- (7) **Preservation and maintenance.** Applicants must provide a preservation and maintenance plan for the proposed mural.
- ~~(7)~~(8) **Public safety.** Mural faces may not have any moving or animated parts, or any other electronic movements. Murals may not be illuminated in such a manner so as to cause glare or to impair the vision of motorists or otherwise distract motorists and interfere with their ability to safely operate their vehicles.
- ~~(8)~~(9) **Compliance with Laws.** Murals must comply with all applicable laws, rules and regulations of the federal, state and county governments. Any proposed amendments

to this section must be consistent with applicable federal, state and county laws and ordinances in effect at the time of such amendment.

Section 5. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 6. Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part thereof other than the part declared to be invalid.

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

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

PASSED AND ADOPTED in regular session on second and final reading on this 17th day of January, 2023

ATTEST:

Katerri Johnson
Katerri Johnson, City Clerk

Shelly Petrolia
Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

Lynn Gelin
Lynn Gelin, City Attorney

First Reading 12/6/2022
Second Reading 1/17/2023