

ORDINANCE NO. 36-16

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES, BY AMENDING; ARTICLE 4.4, "BASE ZONING DISTRICT", SECTION 4.4.9 "GENERAL COMMERCIAL (GC) DISTRICT", SECTION 4.4.11 NEIGHBORHOOD COMMERCIAL (NC) DISTRICT", SECTION 4.4.12 "PLANNED COMMERCIAL (PC) DISTRICT", SECTION 4.4.13 "CENTRAL BUSINESS DISTRICT (CBD)", SECTION 4.4.15 "PLANNED OFFICE CENTER (POC) DISTRICT", SECTION 4.4.16 "PROFESSIONAL AND OFFICE (POD) DISTRICT", SECTION 4.4.17 "RESIDENTIAL OFFICE (RO) DISTRICT", SECTION 4.4.18 "PLANNED COMMERCE CENTER (PCC) DISTRICT", SECTION 4.4.19 "MIXED INDUSTRIAL AND COMMERCIAL (MIC) DISTRICT", SECTION 4.4.26 "LIGHT INDUSTRIAL (LI) DISTRICT", AND SECTION 4.4.29 "MIXED RESIDENTIAL, OFFICE AND COMMERCIAL (MROC) DISTRICT" TO ALLOW NEV TRANSACTIONS LIMITED TO OFFICES ONLY WITH NO INVENTORY ON SITE FOR ANY PURPOSE; AMENDING SECTION 4.4.10 "AUTOMOTIVE COMMERCIAL (AC) DISTRICT" TO INCLUDE NEV WITH RECREATIONAL VEHICLES; AMENDING APPENDIX "A" "DEFINITIONS" TO DEFINE THE TERMS "NEIGHBORHOOD ELECTRIC VEHICLE (NEV)" AND "NEV TRANSACTIONS" MAKING OTHER TECHNICAL CHANGES; PROVIDING A SAVING CLAUSE, A GENERAL REPEALER CLAUSE, AND AN EFFECTIVE DATE.

WHEREAS, pursuant to LDR Section 1.1.6, the Planning and Zoning Board reviewed the proposed text amendment at a public hearing held on November 21, 2016 and voted 6 to 0 to approve the amendments; and

WHEREAS, pursuant to Florida Statute 163.3174(4)(c), the Planning and Zoning Board, sitting as the Local Planning Agency, has determined that the change is consistent with and furthers the goals, objectives and policies of the Comprehensive Plan; and

WHEREAS, the Land Development Regulations currently restrict vehicle leasing, sales and rental to the Automotive Commercial (AC) District; and

WHEREAS, the City desires to support businesses which promote sustainability by increasing the opportunity for the general public to obtain and use electric vehicles, particularly neighborhood electric vehicles and maintaining the City's strict control over the location of vehicle leasing, sales and rental locations by

allowing offices which sell, lease, or rent as a permitted use in several commercial, mixed-use and light industrial districts, limited to the transaction only with no inventory on site for any purpose; and

WHEREAS, the City Commission of the City of Delray Beach adopts the findings in the Planning and Zoning Staff Report; and

WHEREAS, the City Commission of the City of Delray Beach finds the Ordinance is consistent with the Comprehensive Plan.

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

Section 1. That the recitations set forth above are incorporated herein.

Section 2. That 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 Code of Ordinances of the City of Delray Beach, Florida, be and the same is hereby amended to read 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).

(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.

Section 3. That Article 4.4, “Base Zoning District”, Section 4.4.10 “Automotive Commercial (AC) District”, Subsection (B), “Principal Uses and Structures Permitted”, of the Land Development Regulations of the Code of Ordinances of the City of Delray Beach, Florida, be and the same is hereby amended to read as follows:

(B) **Principal Uses and Structures Permitted:** The following uses are allowed within the AC District each as a separate and distinct permitted use:

- (1) Full service automotive dealerships.
- (2) The sale, lease, or rental of automobiles.
- (3) The sale, lease, or rental of boats.
- (4) The sale, lease, or rental of recreational vehicles, including Neighborhood Electric Vehicles (NEVs).
- (5) The sale, lease, or rental of trucks.
- (6) The sale, lease, or rental of motorcycles.
- (7) Retail and wholesale sales of vehicular parts, equipment, and accessories without on-site installation.
- (8) The sale of new utility trailers. However, trailers in excess of 24 feet in length may not be stored on the premises.

Section 4. That 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 Code of Ordinances of the City of Delray Beach, Florida, be and the same is hereby amended to read 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; newsstands.

Section 5. That Article 4.4, “Base Zoning District”, Section 4.4.13(3)(b) “Central Business District (CBD)”, of the Land Development Regulations of the City of Delray Beach, Florida, be, and the same is hereby amended to read as follows:

(b) Central Core and Beach Sub-districts. 100% of the building frontage of the sidewalk level story shall be for the following uses (as described in Table 4.4.13(A)), for a minimum depth of 20 feet:

1. General retail uses and/or facilities, except that sales of automotive parts, lawn care equipment, or second hand material (other than verifiable antiques) are not permitted.
2. Services and facilities, excluding tattoo establishments, and NEV sales, lease or rental offices.
3. Hotels, motels, or residence-type inns.

Section 6. That Article 4.4, “Base Zoning District”, Section 4.4.15 “Planned Office Center (POC) District”, Subsection (B), “Principal Uses and Structures Permitted”, of the Land Development Regulations of the Code of Ordinances of the City of Delray Beach, Florida, be and the same is hereby amended to read as follows:

(B) **Principal Uses and Structures Permitted:** The following types of use are allowed within the POC District as a permitted use:

- (1) Banks and financial institutions including drive-in and drive-through facilities.
- (2) Brokerage establishments, including watercraft, aviation, and motor vehicles but without on premises storage of items, except that securities brokers may store securities brokered by them on the premises.
- (3) Business offices.
- (4) Computer and data management services, including the servicing of hardware.
- (5) Medical offices.
- (6) Medical Clinics
- (7) Medical and dental laboratories.
- (8) Professional offices.
- (9) Photographic studios.
- (10) Real estate, insurance, accounting, travel arrangements and similar services.
- (11) Neighborhood Electric Vehicle (NEV) sales, lease or rental transactions only (no inventory on site for any purpose).

Section 7. That Article 4.4, “Base Zoning District”, Section 4.4.16 “Professional and Office (POD) District”, Subsection (B), “Principal Uses and Structures Permitted”, of the Land Development Regulations of the Code of Ordinances of the City of Delray Beach, Florida, be and the same is hereby amended to read as follows:

(B) **Principal Uses and Structures Permitted:** The following types of use are allowed within the POD District as a permitted use:

- (1) Professional Offices such as accountants, architects, attorneys, chiropractors, dentists, engineers, independent trustees, landscape architects, opticians, optometrists, osteopaths, physicians, psychologists, surgeons, and interior designers.
- (2) General Business Offices for businesses without outside storage of inventory or equipment.
- (3) Banks and Financial Institutions including drive-through facilities.
- (4) Finance, insurance, travel, and real estate services.
- (5) Medical Offices.
- (6) Medical Clinics
- ~~(7) Neighborhood Electric Vehicle (NEV) sales, lease or rental transactions only (no inventory on site for any purpose).~~

Section 8. That Article 4.4, “Base Zoning District”, Section 4.4.17 “Residential Office (RO) District”, Subsection (B), “Principal Uses and Structures Permitted”, of the Land Development Regulations of the Code of Ordinances of the City of Delray Beach, Florida, be and the same is hereby amended to read as follows:

(B) **Principal Uses and Structures Permitted:** The following types of use are allowed within the RO District as a permitted use:

- (1) Single family detached dwelling units.
- (2) Duplex structures.
- (3) Business, Professional, and Medical offices.
- ~~(4) Neighborhood Electric Vehicle (NEV) sales, lease or rental transactions only (no inventory on site for any purpose)~~
- ~~(54)~~ Abused spouse residence limited to forty (40) or fewer residents.
- ~~(67)~~ Funeral parlors, funeral homes.
- ~~(78)~~ Parking lots not associated with a use, pursuant to an adopted neighborhood or redevelopment plan.
- ~~(89)~~ Group Home, Type 1, pursuant to restrictions set forth in Section 4.3.3(I).
- ~~(940)~~ Assisted Living Facilities and Nursing Homes.
- ~~(1044)~~ Residential Licensed Service Provider Facilities

Section 9. That Article 4.4, “Base Zoning District”, Section 4.4.18 “Planned Commerce Center (PCC) District”, Subsection (B), “Allowed Uses”, Sub Sub-Section (1), “Office Center”, of the Land Development Regulations of the Code of Ordinances of the City of Delray Beach, Florida, be and the same is hereby amended to read as follows:

(B) **Allowed Uses:** Use areas as identified herein shall be depicted upon the land use map component of the Master Development Plan (MDP). The list of specific uses allowed within a specific PCC shall be established in the narrative portion of the MDP. Thereafter, uses identified as being allowed in a

specific land use area are allowed pursuant to provisions of the narrative. Alterations to the list of specific uses may be made through the site and development plan modification process.

- (1) **Office Center:** The "Office Center" aspects of a PCC may comprise as much as fifty percent (50%) of the total land area within an entire PCC District. Uses identified in this subsection can only be located in that area of the Land Use Map which is depicted as "Office Center". Such uses are exclusive of the storage of materials used off-site or sold in the associated trade and/or the repair of same. These uses are:
 - Business Offices e.g., travel agencies, bookkeeping agencies, general office location for an individual, partnership, or corporation
 - Neighborhood Electric Vehicle (NEV) sales, lease or rental transactions only (no inventory on site for any purpose)
 - Educational Facilities e.g., vocational schools, commercial schools (sales, real estate, personal development, etc.)
 - Financial Institutions e.g., banks, savings and loan establishments, brokerage firms
 - Medical Offices e.g., physicians, dentists, chiropractors, podiatrists, optometrists, etc.
 - Professional Offices e.g., attorneys, engineering firms, architectural firms, real estate agencies, consultation services, accounting firms, etc.
 - Child Care Centers

Section 10. That Article 4.4, "Base Zoning District", Section 4.4.19 "Mixed Industrial and Commercial (MIC) District", Subsection (B), "Principal Uses and Structures Permitted", of the Land Development Regulations of the Code of Ordinances of the City of Delray Beach, Florida, be and the same is hereby amended to read as follows:

(B) **Principal Uses and Structures Permitted:** The following types of use are allowed within the MIC District as a permitted use:

- (1) **Industrial Uses.** The manufacturing, fabrication and wholesale of items and other uses as described in Section 4.4.20 (B) (1), (2) and (3).
- (2) **Service Industry.** Uses which provide an off-site service but maintain inventory, storage and an office at a central location, as described in Section 4.4.20 (B) (5).
- (3) **Business and Professional Offices,** including, but not limited to finance, insurance, real estate, accounting and bookkeeping services, advertising services, photographic studios, architectural and engineering services, computer and data processing services,

correspondence and vocational schools, credit reporting and collection, detective and protective services, legal services, travel agencies, Neighborhood Electric Vehicle (NEV) sales, lease or rental transactions only (no inventory on site for any purpose), and general offices for an individual, partnership or corporation.

Section 11. That Article 4.4, “Base Zoning District”, Section 4.4.26 “Light Industrial (LI) District”, Subsection (B), “Principal Uses and Structures Permitted”, of the Land Development Regulations of the Code of Ordinances of the City of Delray Beach, Florida, be and the same is hereby amended to read as follows:

(B) **Principal Uses and Structures Permitted:** The following types of uses are allowed within the Light Industrial (LI) Zone District as a permitted use:

- (4) **Office:** General business offices and business services are allowed, including but not limited to Neighborhood Electric Vehicle (NEV) sales, lease or rental transactions only (no inventory on site for any purpose). However, professional offices dealing with medical activities and medicine are not permitted.

Section 12. That Article 4.4, “Base Zoning District”, Section 4.4.29 “Mixed Residential, Office and Commercial (MROC) District”, Subsection (B)(3), “Principal Uses and Structures Permitted”, of the Land Development Regulations of the Code of Ordinances of the City of Delray Beach, Florida, be and the same is hereby amended to read as follows:

(B) **Principal Uses and Structures Permitted:** The following types of uses are allowed within the MROC district as permitted uses:

- (3) **General Retail Uses:** Retail uses and/or facilities not to exceed 20% of the total building square footage of the development, including, but not limited to:
 - (a) Restaurants, baked goods, books, cheeses, beer, wine, liquor, confectioneries, cosmetics, meats, pharmacies, flowers and plants, fruits and vegetables, food, gifts, glassware, ice cream, 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.
 - (b) Barber and beauty shops and salons, caterers, dry cleaning limited to on-site processing for customer pickup only, dry cleaning and laundry pickup stations, outdoor cafes, tailoring, tobacconist.
 - (c) Galleries, butcher shops, cocktail lounges, exercise facilities, museums, libraries, newsstands, commercial or public parking lots and parking garages.

(d) Neighborhood Electric Vehicle (NEV) sales, lease or rental transactions only (no inventory on-site for any purpose), accessory to any Research and Development or Office Center complex.

Section 13. That Appendix "A" "Definitions" of the Land Development Regulations of the Code of Ordinances of the City of Delray Beach, Florida, be and the same is hereby amended to read as follows:

TERM	DEFINITION
<u>NEIGHBORHOOD ELECTRIC VEHICLE (NEV)</u>	<u>Any four-wheeled electric vehicle whose top speed is not greater than 25 miles per hour and a maximum load of 3,000 lbs., pursuant to the National Highway Traffic Safety Administration definition in 63 Federal Register 33913 published on June 17, 1998, and subject to the safety standards in 49 Code of Federal Regulations Section 571.500 and Section 316.2122, Florida Statutes, all as may be amended from time to time.</u>

Section 14. That 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 15. That all ordinances or parts of ordinances in conflict herewith be, and the same are hereby repealed.

Section 16. 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 _____ day of _____, 2016.

Mayor

ATTEST:

City Clerk

First Reading _____

Second Reading _____