

ORDINANCE NO. 37-17

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING CHAPTER 4 "ZONING REGULATIONS", OF THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF DELRAY BEACH, FLORIDA, BY REPEALING SECTION 4.5.4, "COASTAL CONSTRUCTION", IN ITS ENTIRETY; BY AMENDING ALL PREVIOUS REFERENCES TO SECTION 4.5.4 IN THE LAND DEVELOPMENT REGULATIONS TO REFER TO CHAPTER 10; 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 these amendments at a public hearing held on October 17, 2016 and voted 6 to 0 to recommend approval; and

WHEREAS, Ordinance 32-16, adopted by the City Commission on December 6, 2016, sought to renumber "Coastal Construction" from Section 4.5.4 of the Land Development Regulations of the City of Delray Beach to Article 10.4 of same; however, the body of Ordinance 32-16 omitted the requirements to properly repeal section 4.5.4, making this Ordinance necessary to avoid duplication; and

WHEREAS, additional sections of the Land Development Regulations referencing Section 4.5.4 are also amended to provide the proper reference to Chapter 10 "Flood Damage Control Districts and Coastal Construction"; 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, on December 6, 2016, the City Commission passed and adopted Ordinance 32-16 which renumbered section 4.5.4 of the Land Development Regulations to Article 10.4 entitled "Coastal Construction" but failed to repeal same; thus, this section is currently duplicated in the Land Development Regulations making this repealing Ordinance necessary and all references throughout the Land Development Regulations to section 4.5.4 must be amended to refer to Chapter 10; 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 and is in the best interests of the City.

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 Chapter 4, “Zoning Regulations”, Article 4.5, “Overlay and Environmental Management District”, Section 4.5.4, “Coastal Construction”, of the Land Development Regulations of the City of Delray Beach, Florida, is hereby repealed in its entirety as follows:

~~Sec. 4.5.4 – Coastal construction.~~

~~(A) — **Purpose and intent.** The purpose of this Section is to provide minimum standards for the design and construction of buildings and structures to reduce the harmful effects of hurricanes and other severe storms occurring along the coastal area of the City. These standards are intended to specifically address design features which affect the structural stability of the beach, dunes, and topography of adjacent properties.~~

~~(B) — **Applicability and exceptions.**~~

~~(1) — **Geographic area.** The requirements of this Section shall apply to construction and development in the Coastal Building Zone which is identified as the land area between the seasonal high water line of the Atlantic Ocean and a line 1,500 feet landward from the coastal construction control line.~~

~~(2) — **Types of construction.** The requirements of this Section shall apply to the following types of construction in the coastal building zone or partially within the coastal building zone.~~

- ~~(a) — The new construction of, or substantial improvement of major structures, nonhabitable major structures, and minor structures.~~
- ~~(b) — Construction which would change, or otherwise have the potential for substantial impact on coastal zones e.g. excavation, grading, paving.~~
- ~~(c) — Reconstruction, redevelopment, or repair of a damaged structure from any cause which meets the definition of a substantial improvement.~~

~~(3) — **Conflict with other regulations.** In the event of a conflict between this Section and other portions of these regulations, the requirements resulting in the more restrictive design shall apply. No provision in this Section shall be construed to permit any construction in any area prohibited by city, county, state, or federal regulation.~~

~~(4) — **Special information.**~~

- ~~(a) — **Certifications for building permits.** Applications for building permits for construction in the Coastal Building Zone, if not of normal or usual design, may be required by the Chief Building Official to be certified by~~

~~an architect or professional engineer registered in the State of Florida. Such certification shall state that the design plans and specifications are in compliance with the criteria established by this Section.~~

~~(b) **Reference documents.** Assistance in determining the design parameters and methodologies necessary to comply with the requirements of this Section may be found in the following:~~

~~(i) Shore Protection Manual, U.S. Army Corps of Engineers, latest edition.~~

~~(ii) U.S. Department of the Army, Coastal Engineering Research Center's Technical Papers and Reports.~~

~~(iii) Florida Department of Natural Resources, Division of Beaches and Shores Technical and Design Memoranda.~~

~~(iv) Naval Facilities Engineering Command Design Manual, NAVFAC DM 26, U.S. Department of the Navy.~~

~~(v) Coastal Construction Manual, Federal Emergency Management Agency, February, 1986, with notice that the wind design section is based upon the 1982 Edition of the Standard Building Code with the 1984 accumulated amendments and not the 1985 Edition of the Standard Building Code with the 1986 revisions as required by F.S. 161.55(l)(d).~~

~~(5) **Exceptions.** The requirements of this Section shall not apply to the following:~~

~~(a) Minor work in the nature of normal beach cleaning and debris removal. See Section 4.5.5(D) for such requirements.~~

~~(b) Structures in existence, or construction for which a valid and unexpired building permit was issued, prior to December 30, 1986, except for substantial improvements.~~

~~(c) Construction extending seaward of the seasonal high water line which is regulated by the provisions of F.S. 161.041 e.g., groins, jetties, moles, breakwaters, seawalls, piers, revetments, beach nourishment, inlet dredging, and the like.~~

- ~~(d) Construction of nonhabitable major structures and minor structures except that they shall be designed to produce the minimum adverse impact on the beach and dune system and shall comply with the applicable standards of construction found in the Standard Building Code, as amended. And, that public facilities comply with the following, at a minimum:~~
 - ~~(i) All sewage treatment and public water supply systems shall be flood proofed to prevent infiltration of surface water anticipated under design storm conditions.~~
 - ~~(ii) Underground utilities, excluding pad transformers and vaults, shall be flood proofed to prevent infiltration of surface water anticipated under design storm conditions or shall otherwise be designed to function when submerged under design storm conditions.~~
- ~~(e) Structures listed in the National Register of historic Places of the State Inventory of Historic Places.~~
- ~~(f) Construction for improvement of a major structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions.~~

~~(C) **Development regulations.**~~

~~(1) **Public access.** Where the public has established an accessway through private lands to lands seaward of mean high tide or water line by prescription, prescription easement, or other legal means, development or construction shall not interfere with the right of access unless a comparable alternative accessway is provided. The developer shall have the right to improve, consolidate, or relocate those public accessways so long as they are:~~

- ~~(a) Of substantially similar quality and convenience to the public;~~
- ~~(b) Approved by the local government and approved by the Department of Natural Resources whenever improvements are involved seaward of the coastal construction line; and~~
- ~~(c) Consistent with the coastal management element of the local Comprehensive Plan.~~

~~(2) **Location of construction.** Construction, except for elevated walkways, lifeguard support stands, piers, beach access ramps, gazebos, and coastal or shore protection structures, shall be located a sufficient distance landward of the beach to permit natural shoreline fluctuations and~~

to preserve dune stability. Construction, including excavation, may occur to the extent that the natural storm buffering and protection capability of the dune is not diminished.

~~(3) — **Structural requirements.**~~

- ~~(a) — **Design and construction.** Major structures, except for mobile homes, shall be designed and constructed in accordance with 2001 Florida Building Code, as amended, and applicable federal and state agencies.~~

~~(4) — **Foundations.** The elevation of the soil surface to be used in the design of foundations, calculation of pile reactions and bearing capacities shall not be greater than that which would result from the erosion reasonably anticipated as a result of design storm conditions. Foundation design and construction of a major structure shall consider all anticipated loads acting simultaneously with live and dead loads. Erosion computations for foundation design shall account for all vertical and lateral erosion and scour producing forces, including localized scour due to the presence of structural components. Foundation design and construction shall provide for adequate bearing capacity taking into consideration the type of soil present and the anticipated loss of soil above the design grade as a result of localized scour. Erosion computations are not required landward of coastal construction control lines established or updated since June 30, 1980. Upon request the Department of Natural Resources may provide information as to those areas within coastal building zones where erosion and scour of a 100-year storm event is applicable.~~

~~(5) — **Wave forces.**~~

- ~~(a) — Calculations for wave forces resulting from design storm conditions on building foundations and superstructures may be based upon the minimum criteria and methods prescribed in the Naval Facilities Engineering Command Design Manual, NAVFAC DM 26, U.S. Department of Navy; Shore Protection Manual, U.S. Department of the Army Corps of Engineers; U.S. Department of the Army Coastal Engineering Research Center Technical Papers and Reports; the Technical and Design Memoranda of the Division of Beaches and Shores, Florida Department of Natural Resources; or other professionally recognized methodologies which produce equivalent design criteria.~~
- ~~(b) — Breaking, broken, and nonbreaking waves shall be considered as applicable. Design wave loading analysis shall consider vertical uplift pressures and all lateral pressures to include impact as well as dynamic loading and the harmonic intensification resulting from repetitive waves.~~

~~(6) — **Hydrostatic loads.** Calculations for hydrostatic loads shall consider the maximum water pressure resulting from a fully peaked, breaking wave superimposed upon the design~~

~~storm surge with dynamic wave setup. Both free and hydrostatic loads shall be considered. Hydrostatic loads which are confined shall be determined by using the maximum elevation to which the confined water would freely rise if unconfined. Vertical hydrostatic loads shall be considered both upward and downward on horizontal or inclined surfaces of major structures (for example, floors, slabs, roofs, and walls). Lateral hydrostatic loads shall be considered as forces acting horizontally above and below grade on vertical inclined surfaces. Hydrostatic loads on irregular or curved geometric surfaces shall be determined by considering the separate vertical and horizontal components acting simultaneously under the distribution of the hydrostatic pressures.~~

~~(7) Hydrodynamic loads. Hydrodynamic loads shall consider the maximum water pressures resulting from the motion of the water mass associated with the design storm. Full intensity loading shall be applied on all structural surfaces above the design grade which would affect the flow velocities.~~

Section 3. That Section 2.1.2(B)(b), “Chief Building Official.” of the Land Development Regulations of the City of Delray Beach, Florida, is hereby amended as follows:

1.4.1 (A) Interpretation of Chapter 7 (Building)

1.4.1 (B) Interpretation of Standards in Chapter Four (Zoning District Regulations)

1.4.2 (A) Enforcement of Regulations on Private Property

1.4.5 Interpretation of Appendix “A” (Definitions)

2.4.5 (I) (1) (b) Aesthetic approval for a limited number of items

2.4.6 (H) Approval of temporary uses of sales offices, models, construction trailers and compounds

2.4.7 (F) (2) (a) Member of Special Adjustment Advisory Board

10.1 4.5.34 (B) (1) Administration of Flood Damage Control Regulations Districts and Coastal Construction

Section 4. That Section 2.2.4(D)(4)(b) of the Land Development Regulations of the City of Delray Beach, Florida, is hereby amended as follows:

(b) Regulations found in the Flood Damage Control Overlay District, Chapter 10 Section 4.5.3.

Section 5. That Section 2.4.6(G)(1) of the Land Development Regulations of the City of Delray Beach, Florida, is hereby amended as follows:

(1) Rule: A permit to construct in a flood hazard area (see Chapter 10 Section 4.5.4) must be issued by the Chief Building Official.

Section 6. That Section 2.4.6(G)(2)(a) of the Land Development Regulations of the City of Delray Beach, Florida, is hereby amended as follows:

(a) General Data: Duplicative plans which are drawn to scale and which contain the following data are required.

- ☐ Nature, location, boundary, and general elevations of the territory under consideration;
 - ☐ Existing and proposed structures;
- ☐ Fill areas, storage areas, drainage facilities;
- ☐ The elevation, in relation to mean sea level, of the lowest floor (including basement) of all structures;
- ☐ Elevation, in relation to mean sea level, to which a nonresidential structure has been flood-proofed;
- ☐ Certification from a registered professional engineer, or architect, that the nonresidential flood-proofed structure meets the floodproofing criteria in Chapter 10 Section 4.5.4(D);
- ☐ A description of the extent to which any water course will be altered or relocated as a result of the proposed development.

Section 7. 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 8. That all ordinances or parts of ordinances in conflict herewith be, and the same are hereby repealed.

Section 9. 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 the ____ day of _____, 2017.

ATTEST

MAYOR

City Clerk

First Reading_____

Second Reading_____