

ORDINANCE NO. 05-18

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF DELRAY BEACH AT CHAPTER 8, "SPECIAL IMPLEMENTATION PROGRAMS" BY REPEALING ARTICLE 8.1, "THE COMMUNITY REDEVELOPMENT AGENCY" IN ITS ENTIRETY; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, pursuant to LDR Section 1.1.6. the Planning and Zoning Board reviewed these amendments at a public hearing held on _____ 2018 and voted ____ to ____ 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 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 8.1, "The Community Redevelopment Agency", of the Land Development Regulations of the City of Delray Beach, Florida, is hereby repealed in its entirety and shall be reserved for future legislation as follows:

ARTICLE 8.1.- THE COMMUNITY REDEVELOPMENT AGENCY Reserved

~~Sec. 8.1.1.- Community Redevelopment Agency.~~

(A) ~~**Creation.** Upon a finding of necessity as set forth in F.S. Section 163.355, and upon a further finding that there is a need for a community redevelopment agency to function in the City to carry out the community redevelopment purposes of F.S. Chapter 163, Part III, the City hereby creates a public body corporate and politic to be known as the Community Redevelopment Agency. The Agency shall be constituted as a public instrumentality, and the exercise by the Agency of the powers conferred~~

by F.S. Chapter 163, Part III shall be deemed and held to be the performance of an essential public function.

~~(B) — **Members.** The Commission shall, by ordinance, appoint a Board of Commissioners of the Community Redevelopment Agency, which shall consist of seven Commissioners. The terms of office of the Commissioners shall be for four years, except that three of the members first appointed shall be designated to serve terms of one, two, and three years, respectively, from the date of their appointments, and all other members shall be designated to serve for terms of four years from the date of their appointments. A vacancy occurring during a term shall be filled for the unexpired term.~~

- ~~(1) — A Commissioner shall receive no compensation for his services, but is entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his duties. Each Commissioner shall hold office until his successor has been appointed and has qualified. A certificate of the appointment or reappointment of any Commissioner shall be filed with the City Clerk, and such certificate is conclusive evidence of the due and proper appointment of that Commissioner.~~
- ~~(2) — The powers of the Agency shall be exercised by the Commissioners thereof. A majority of the Commissioners shall constitute a quorum for the purpose of conducting business and exercising the powers of the Agency and for all other purposes. Action may be taken by the Agency upon a vote of a majority of the Commissioners present, unless in any case the bylaws require a larger number. Any person may be appointed as a Commissioner if he resides or is engaged in business, which means owning a business, practicing a profession, or performing a service for compensation; or serving as an officer or director of a corporation or other business entity so engaged, within the area of operation of the Agency, which shall be coterminous with the area of operation of the City, and is otherwise eligible for such appointment.~~
- ~~(3) — The Commission shall designate a Chairperson and Vice-Chairperson from among the Commissioners on an annual basis. The term Chairperson and Vice-Chairperson shall begin on August 1 and end on July 31 of each year. The Agency may employ an executive director, technical experts, and such other agents and employees, permanent and temporary, as it requires, and determine their qualification, duties, and compensation. For such legal service as it requires, the Agency may employ or retain its own counsel and legal staff. The Agency shall file with the Commission and with the State Auditor General, on or before March 31 of each year, a report of its activities for the preceding fiscal year, which report shall include a complete financial statement setting forth its assets, liabilities, income, and operating expenses as of the end of such fiscal year. At the time of filing the report, the Agency shall publish in a newspaper of general circulation in~~

~~the community a notice to the effect that such report has been filed with the City and that the report is available for inspection during business hours in the office of both the City Clerk and the office of the Agency.~~

- ~~(4) — At any time, the Commission may appropriate to the Agency such amounts as it deems necessary for the administrative expenses and overhead of the Agency.~~
- ~~(5) — The Commission may remove a Commissioner for inefficiency, neglect of duty, or misconduct in office only after a hearing and only if he has been given a copy of the charges at least ten days prior to the hearing and has had an opportunity to be heard in person or by counsel.~~

~~(C) — **Code of Ethics.** The officers, Commissioners, and employees of the Community Redevelopment Agency shall be subject to the provisions and requirements of F.S. Chapter 112, Part III.~~

- ~~(1) — If any such official, Commissioner, or employee presently owns or controls, or owned or controlled within the preceding two years, any interest, direct or indirect, in any property which he knows is included or planned to be included in a community redevelopment area, he shall immediately disclose this fact in the manner provided in F.S. Chapter 112, Part III. Any disclosure required to be made by this section shall be made prior to taking any official action pursuant to this section.~~
- ~~(2) — No Commissioner of other office of the Agency or Board of Commissioners exercising powers pursuant to this section shall hold any other public office under the City other than his Commissionership or office with respect to the Community Redevelopment Agency or Board of Commissioners.~~

~~(D) — **Delegation of power.** The Commission delegates to the Community Redevelopment Agency each of the powers set forth in F.S. Subsection 163.370 et seq. including the power to appropriate such funds and make such expenditures as are necessary to carry out the purposes as of the "Community Redevelopment Act of 1969" (excluding however those remaining powers enumerated in F.S. Subsection 163.370(1)(1) and the powers in F.S. Subsection 163.370(m). However, the City retains the right to exercise any of the powers delegated herein to the Community Redevelopment Agency, and such powers shall not be deemed to be vested exclusively in the Agency.~~

~~Sec. 8.1.2. — Community Redevelopment Plan.~~

~~The Community Redevelopment Agency shall prepare or cause to be prepared a community redevelopment plan as described in F.S. Subsection 163.360, for any area that the Commission has, by resolution, determined to be a slum area, a blighted area, or an area in which there is a shortage of housing~~

~~affordable to residents of low or moderate income, including the elderly, or a combination thereof, and designated such area as appropriate for community redevelopment.~~

~~Statutory reference:~~

~~Preparation of plan, see F.S. Section 163.360.~~

~~Modification of plan, see F.S. Section 163.361.~~

~~Contents of plan, see F.S. Section 163.362.~~

~~Sec. 8.1.3. -- Redevelopment Trust Fund.~~

~~(A) — There is hereby established and created in accordance with the provisions of F.S. Section 163.387 a Redevelopment Trust Fund.~~

~~(B) — The funds allocated to, and deposited into the Redevelopment Trust Fund are hereby appropriated to the Community Redevelopment Agency to finance or refinance each community redevelopment project it undertakes. The Agency shall utilize the funds and revenues paid into and earned by the Redevelopment Trust Fund for all and every community redevelopment purpose as contained in the plan for redevelopment and as provided by law.~~

~~(C) — The annual funding of the Trust Fund shall be in an amount not less than that increment in the income, proceeds, revenues, and funds of the City derived from or held in connection with its undertaking and carrying out of community redevelopment projects therein. The increment shall be determined and appropriated annually, and shall be that amount equal to the difference between:~~

~~(1) — That amount of ad valorem taxes levied each year by all taxing authorities except the County School Board on taxable real property contained within the geographic boundaries of the community redevelopment project; and (2) That amount of ad valorem taxes which would have been produced by the rate upon which the tax is levied each year by or for all taxing authorities except the School Board upon the total of the assessed roll used in connection with the taxation of such property by each taxing authority, last equalized prior to the effective date of the resolution approving the community redevelopment plan.~~

~~(D) — The City's obligation to fund the Trust Fund shall continue until all loans, advances, and indebtedness, if any, and interest thereon, of the Agency incurred as the result of a community redevelopment project have been paid, but only to the extent that the tax increment described in division (C) above accrues. The City shall make its appropriation to the Trust Fund at the beginning of the City's fiscal year. The Trust Fund shall receive the income above described prior to December 31 of each calendar year. The City shall fund the Trust Fund for the duration of each project undertaken by the Agency and approved by the City. Further:~~

~~(1) — The revenue bonds and notes of every issue of the Agency shall be payable solely out of revenues pledged to and received by the Agency and deposited to the Trust~~

~~Fund. The lien created by such bonds or notes shall not attach until the revenues referred to herein are deposited in the Trust Fund at the times, and to extent that, such revenues accrue. The holders of such bonds or notes shall have no right to require the imposition of any tax or the establishment of any rate of taxation in order to obtain the amounts necessary to pay and retire such bonds or notes.~~

~~(2) Revenue bonds issued by the Agency shall not be deemed to constitute a debt, liability, or obligation of the City or the state or any political subdivision thereof, or a pledge of the faith and credit of the City or the state or any political subdivision thereof, but shall be payable solely from the revenues provided therefor. All such revenue bonds shall contain on the face thereof a statement to the effect that the Agency shall not be obligated to pay the same or the interest thereon except from the revenues of the Agency held for that purpose and that neither the faith and credit nor the taxing power of the City or of the state or of any political subdivision thereof is pledged to the payment of the principal of, or the interest on, such bonds.~~

~~(E) The Agency is hereby directed to establish the Trust Fund and to develop and promulgate rules, regulations, and criteria whereby the Trust Fund may be promptly and effectively administered, including the establishment and the maintenance of books and records and the adoption of procedures whereby the Agency may expeditiously utilize the funds for their allocated statutory purpose.~~

~~Sec. 8.1.4. Provisions supplemental.~~

~~This chapter shall be deemed supplemental to the provisions of F.S. Chapter 163, Part III, the provisions of which are incorporated herein by reference.~~

Section 3. That should any section or provision of this ordinance, or any paragraph, sentence, or word thereof, be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this ordinance as a whole or part thereof other than the part declared to be invalid

Section 4. That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 5. Specific authority is hereby given to codify this Ordinance.

Section 6. That this ordinance shall become effective upon its adoption on second and final reading.

PASSED AND ADOPTED in regular session on second and final reading on this ____ day of _____, 2018.

Shelly Petrolia, Mayor

ATTEST:

City Clerk

First Reading _____

Second Reading _____

Approved as to Form and
Legal Sufficiency:

R. Max Lohman, City Attorney