

ORDINANCE NO. 25-18

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 SECTION 4.4.13 “CENTRAL BUSINESS (CBD) DISTRICT”, BY AMENDING SUB-SECTION (D), “CONFIGURATION OF BUILDINGS”, SUB-SUB SECTION (1), “STANDARDS FOR CBD GENERALLY”, PARAGRAPH (a), “BUILDING HEIGHT”, TO DEFINE THE PROPERTIES LOCATED WITHIN THE ATLANTIC AVENUE HEIGHT LIMIT AREA; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Legislature of the State of Florida has, in Chapter 166 -- Municipalities, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

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

WHEREAS, pursuant to LDR Section 1.1.6, the Planning and Zoning Board reviewed the proposed text amendment at a public hearing held on September 17, 2018, and voted 5 to 1 to recommend approval of the ordinance; 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 Section 4.4.13. “Central Business (CBD) District”, Subsection (D) “Configuration of Buildings”, Paragraph (1)(A) “Building Height”, of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows and providing for a revised Figure 4.4.13-5 “Central Core and Beach Sub-districts Regulating Plan” as shown in Exhibit A attached hereto and incorporated herein:

(D) **Configuration of buildings.**

(1) ***Standards for CBD Generally.*** The following building configuration standards apply to all CBD Sub-districts:

- (a) ***Building height.*** Unless otherwise specified herein, the height of buildings shall be measured in and regulated by the number of stories and the maximum overall building height (See Table 4.4.13(C)). Increasing the maximum number of stories allowed may not be approved as a waiver. Stories are measured from the finished floor to finished ceiling. See Figure 4.4.13-10.
1. Within the Atlantic Avenue Limited Height Area, maximum overall building height in feet is 38 feet and maximum building height in number of stories is three. The Atlantic Avenue Height Limit Area is defined as those properties, or portions of properties, located within (a) 125 feet ~~north or~~ south of the Atlantic Avenue right-of-way line, between Swinton Avenue and the Intercoastal Waterway and (b) 125 feet north of the Atlantic Avenue right-of-way line between (i) a line 118 west of NE 2nd Avenue (a 50-foot-wide right-of-way) and (ii) the Intracoastal Waterway. (See Figure 4.4.13-5).
 2. Except within the Atlantic Avenue Limited Height Area, maximum overall building height in feet is 54 feet and maximum building height in number of stories is four. For the purposes of this section, height is measured from the average crown of road or the FEMA published minimum finished floor elevation (whichever is greater) to the highest finished roof surface of a flat roof or the soffit of a gable, hip, or gambrel roof.
 3. Stories located below grade are for parking or storage uses only and are not counted for the purpose of measuring building height. If the floor of the first habitable story is elevated more than four feet above the adjacent sidewalk, the space below counts as the first story for the purposes of measuring building height.
 4. The ground story of commercial or mixed-use buildings shall be a minimum of 12 feet tall.
 5. The ground story of residential buildings shall be a minimum of ten feet tall.

6. Each story above the ground story in all buildings must be at least nine feet tall.
7. Mezzanines that exceed the percentage of floor area for a mezzanine defined in the Florida Building Code are counted as stories for the purpose of measuring height. For the purpose of measuring building height, parking levels are counted as set forth in Section 4.4.13(D)(8).
8. Each parking garage level exposed to a street or civic open space shall be counted as a story for the purposes of measuring height. Parking levels fully concealed from view by a story containing an active use (i.e. retail, residential, office) are not counted as stories for the purpose of measuring height. See Figure 4.4.13-9.
9. Within the Central Core, Railroad Corridor, and Beach Sub-districts, residential units must have the floor of the first habitable story elevated at least 18 inches above the adjacent sidewalk. Within the West Atlantic Neighborhood Sub-district, residential units must have the floor of the first habitable story elevated at least 12 inches above the adjacent sidewalk. Lobbies and common areas in multi-unit or mixed-use buildings may have a lower ground floor finish level.
10. Architectural features including church spires, steeples, belfries, and cupolas are not limited by story height; however, any part of any such feature shall not extend above the height of 64 feet unless specifically approved by action of the City Commission.

Section 4. 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 5. That all ordinances or parts of ordinances in conflict herewith be, and the same are hereby repealed.

Section 6. Specific authority is hereby given to codify this Ordinance.

Section 7. 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 _____, 2018.

Shelly Petrolia, Mayor

ATTEST:

City Clerk

First Reading _____

Second Reading _____

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY:

R. Max Lohman, City Attorney