

ORDINANCE NO. 07-20

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 FOUR, "ZONING REGULATIONS", ARTICLE 4.4, "BASE ZONING DISTRICT", SECTION 4.4.13, "CENTRAL BUSINESS DISTRICT (CBD)", BY AMENDING SUBSECTION 4.4.13(B)(4), "REGULATING PLANS", "ATLANTIC AVENUE LIMITED HEIGHT AREAS"; AND, AMENDING FIGURE 4.4.13-A-2, "WEST ATLANTIC NEIGHBORHOOD SUB-DISTRICT REGULATING PLAN", TO LIMIT THE HEIGHT OF PROPERTIES REZONED TO CENTRAL BUSINESS DISTRICT (CBD) FROM SINGLE-FAMILY RESIDENTIAL (R-1-A) WITHIN THE WEST ATLANTIC NEIGHBORHOOD SUB-DISTRICT PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AUTHORITY TO CODIFY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, this amendment to the Land Development Regulations seeks to provide compatible transitions between commercial and mixed-use development located on property zoned Central Business District and adjacent properties zoned Single-family Residential; 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 December 16, 2019 and voted _ to _ 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,

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 District (CBD)", Subsection (B) "Regulating plans", of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

- (B) **Regulating plans.** The Delray Beach Central Business District Regulating Plans depict additional information necessary to apply the standards contained in this Section and are hereby officially adopted as an integral part of these regulations. A Regulating Plan for each CBD Sub-district is provided in this Section and versions at larger scales are available in the Planning and Zoning Department. The Regulating Plans depict the following information:
- (1) **Primary and secondary streets and alleys.** Primary Streets are intended to develop over time as superior pedestrian environments and, as such, are held to higher standards in the regulations regarding building placement, building frontage, and the location of parking and service uses. Streets not designated as Primary Streets are considered Secondary Streets, which can accommodate service functions and vehicular-oriented development needs, including parking, loading, and drive-through facilities. Alleys are important assets in the CBD, performing many functions within small rights-of-way. See Section 4.4.13(C)(2).
 - (2) **Required Retail Frontage.** Certain Primary Streets within the CBD are intended to be lively, highly active pedestrian environments that support businesses and reinforce local character. Streets designated with Required Retail Frontage are held to stricter standards regarding allowable frontage types and uses located within side-walk level stories. See Section 4.4.13(C)(2).
 - (3) **Parking and transit locations.** The locations of public parking garages and the planned Tri-Rail Coastal Link station are mapped on the Regulating Plan. Parking requirements may be adjusted based on the proximity to these transportation resources. In addition, the Atlantic Avenue Parking Area is mapped, which has special parking requirements for restaurant and lounge uses. See Section 4.4.13(I).
 - (4) **Limited Height Areas.** Building height is limited in specific areas to protect and enhance existing development patterns. See Section 4.4.13(D).
 - a. Building height is limited on a portion of East Atlantic Avenue to help maintain the unique character of the City's historic main street. See Section 4.4.13(D).
 - b. Building height is limited in certain areas in the South Pairs Neighborhood Sub-district and the West Atlantic Neighborhood Sub-district to encourage compatible transitions to the surrounding single-family neighborhoods.
 - (5) **West Atlantic Neighborhood Commercial Area.** The location of commercial uses is limited within the West Atlantic Neighborhood Sub-district to protect established residential areas from commercial intrusion. See Section 4.4.13(C)(~~3~~)(b)4(c).

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- (6) **Old School Square Historic Arts District (OSSHAD) Zoning with CBD Overlay.** Section 4.4.24(E) identifies OSSHAD properties with CBD Overlay and which CBD Sub-district standards apply.
- Properties with OSSHAD Zoning with CBD Overlay may follow the applicable CBD Sub-district development standards for principal and accessory uses only and may not apply for conditional uses or participate in the Incentive Program in Section 4.4.13(H).
 - CBD Overlay properties are also subject to the OSSHAD Special District Regulations of Section 4.4.24(H).
 - CBD Overlay properties must adhere to the required standards set forth in Section 4.4.13(F)(1), and 4.4.13(K)(3).

(Figures 4.4.13 A-1, A-3, and A-4 shall remain in full force and effect as previously adopted)

Figure 4.4.13-A-2 West Atlantic Neighborhood Sub-district Regulating Plan



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Section 4. That Section 4.4.13, “Central Business District (CBD)”, Subsection (C) “Allowable uses”, of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

(4) Supplemental use standards.

- (a) **Community Residence Housing.** Except as required by state law, a Community Residence housing four to ten individuals shall be allowed as a permitted use in all five CBD Sub-Districts if it (1) would be located at least 660 linear feet from the closest existing community residence housing four or more individuals as measured from the nearest property line of the proposed community residence to the nearest property line of the existing community residence, and (2) the operator or applicant is licensed or certified by the State of Florida to operate the proposed community residence, has certification from an appropriate national accrediting agency, or has been recognized or sanctioned by Congress to operate the proposed community residence. Except as required by state law, a conditional use permit must be obtained for any community residence that does not meet both criteria (1) and (2). See additional and related regulations at Section 2.4.7(G) and 4.3.3(I) of the Land Development Regulations.
- (b) **Worker transport/assembly points.** The picking-up, dropping-off, or otherwise transporting workers, assigned through an employment agency, from an assembly point in the CBD to the work site is prohibited, except within the West Atlantic Neighborhood area provided the structure or assembly point is not located on West Atlantic Avenue.
- (c) Churches or places of worship, and their attendant Sunday school, recreational and columbarium facilities not exceeding 3,500 square feet of gross floor area. The foregoing does not allow establishment of educational and care uses such as elementary school and general day care.
- (d) **West Atlantic Neighborhood Sub-district Supplemental Use Standards:** The following supplemental district regulations apply in the West Atlantic Neighborhood Sub-district:
 - 1. **West Atlantic Neighborhood Commercial Area.** Commercial and mixed-use structures may extend up to 150 feet from West Atlantic Avenue and are allowed on NW 5th Avenue, and SW 5th Avenue, ~~and may extend up to 150 feet from West Atlantic Avenue.~~ Residential structures and a Accessory uses such as parking areas, landscaping, and drainage retention areas may extend beyond the 150-foot limit. Full service grocery stores may extend beyond the 150-foot limit ~~on commercial structures on commercial structures~~

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from West Atlantic Avenue with approval by the SPRAB or HPB of a site plan design that ensures compatible transitions between commercial and residential areas. Establishment or expansion of ~~other~~ commercial and mixed-use structures beyond the 150-foot limit may be allowed as a conditional use, subject to the required findings of Section 2.4.5(E)(5). The West Atlantic Neighborhood Commercial Area is mapped on the West Atlantic Neighborhood Regulating Plan.

2. There is no restriction on repair of non-conforming single-family residences located more than 150 feet from West Atlantic Avenue.

Section 5. That Section 4.4.13, “Central Business District (CBD)”, Subsection (D) “Configuration of buildings” and Table 4.4.13(B), “Building Height”, of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

(D) Configuration of buildings.

- (1) **Standards for CBD.** 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)). 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 125 feet north or south of the East Atlantic Avenue right-of-way line, between Swinton Avenue and the Intracoastal Waterway. (See Figure 4.4.13-5).
 2. Within the South Pairs Neighborhood Limited Height Area, maximum overall building height in feet is 48 feet and the maximum number of stories is four. The South Pairs Limited Height Area is defined as those properties or portions of properties located on the west side of SE 5th Avenue or on the east side of SE 6th Avenue.

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3. Within the West Atlantic Neighborhood Limited Height Area, the maximum overall building height in feet is 35 feet and the maximum number of stories is three. The West Atlantic Neighborhood Limited Height Area is required for those properties rezoned from Single-family Residential (R-1-A) to Central Business District.
4. Except within limited height areas, maximum overall building height in feet is 54 feet and maximum building height in number of stories is four.
5. 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, then the space below counts as the first story for the purposes of measuring building height.
6. The ground story of commercial or mixed-use buildings shall be a minimum of 12 feet tall. The ground story of residential buildings shall be a minimum of ten feet tall.
7. Each story above the ground story in all buildings must be at least nine feet tall.
8. 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).
9. 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 lined and 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.
10. Within the Central Core, Railroad Corridor, Beach and South Pairs 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.

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11. Architectural features including church spires, steeples, belfries, and cupolas are not limited by story height; however, any part of any such feature shall not exceed 10 feet above the maximum overall building height unless specifically approved by action of the City Commission.
12. Elevator overruns and stairways are not limited by the number of stories and shall not exceed 10 feet above the maximum overall building height.

Figure 4.4.13-D-1 Counting the Number of Stories

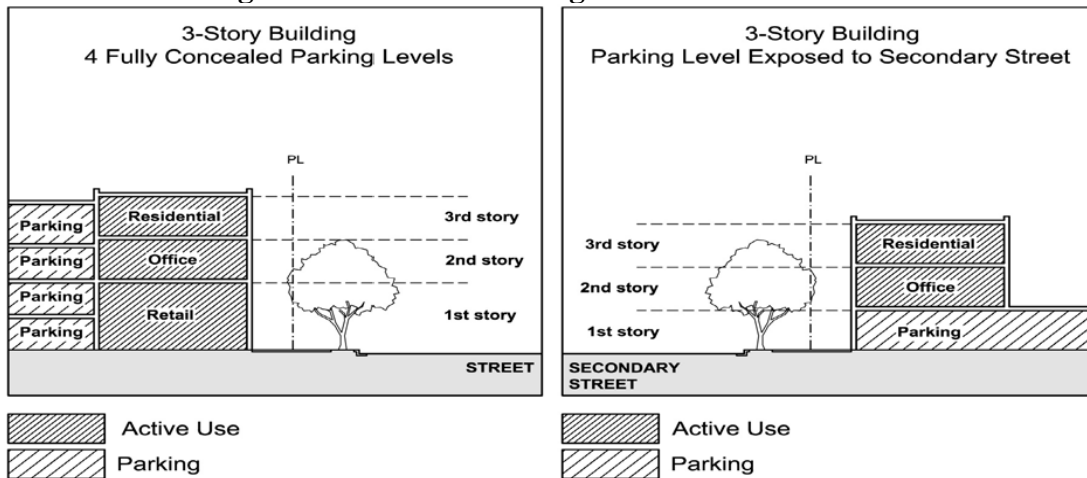
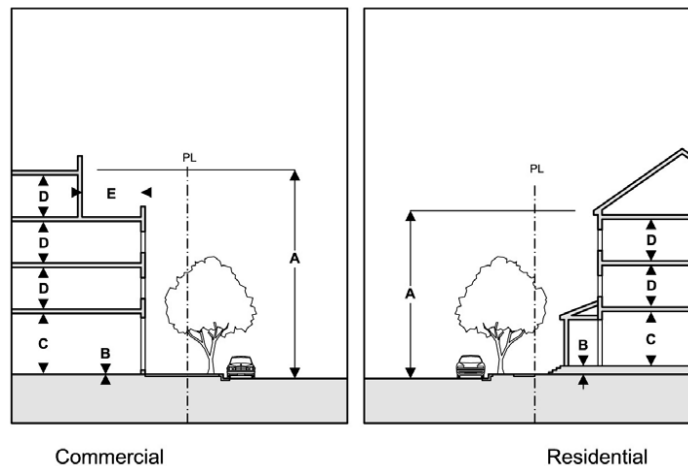


Figure 4.4.13-D-2 Measuring Building Height



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Table 4.4.13(B) Building Height		
A	Maximum Building Height in the Atlantic Avenue Limited Height Area	3 stories and 38 ft.
	Maximum Building Height in South Pairs Limited Height Area	4 stories and 48 ft.
	<u>Maximum Building Height in the West Atlantic Neighborhood Limited Height Area</u>	<u>3 stories and 35 ft</u>
	Maximum Building Height outside of the Limited Height Areas	4 stories and 54 ft.
B	Ground Floor Finish Level	
	Residential Units in the Beach, Central Core, South Pairs and Railroad Corridor Sub-districts	18" min.
	Residential Units in the West Atlantic Neighborhood Sub-district	12" min.
C	Ground Story Height	
	Commercial and Mixed-Use Buildings, with ground floor commercial uses.	12 ft. min.
	Residential Buildings	10 ft. min.
D	Upper Story Height	9 ft. min.
E	Additional Setback Above 3 rd Story	varies

(b) – (e) (These subsections shall remain in full force and effect as previously adopted)

Section 6. That Section 4.4.13, “Central Business District (CBD)”, Subsection (D) “Configuration of buildings”, Table 4.4.13(C), “Dimensional Requirements by CBD Sub-district”, of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

Table 4.4.13 (C) Dimensional Requirements by CBD Sub-district						
	Central Core	Railroad Corridor	Beach	West Atlantic Neighborhood	South Pairs	
Lot Size						
Lot Width	20 ft. min.	20 ft. min.	20 ft. min.	20 ft. min.	20 ft. min.	
Lot Area	2000 sf. min.	2000 sf. min.	2000 sf. min.	2000 sf. min.	2000sf. min.	
Building Placement						
A	Front Setback ¹	10 ft. min./ 15 ft. max.	10 ft. min./ 15 ft. max.	10 ft. min./ 15 ft. max.	10 ft. min./ 15 ft. max.	Primary Streets: 15 ft. min./ 20 ft. max.

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Table 4.4.13 (C) Dimensional Requirements by CBD Sub-district						
		Central Core	Railroad Corridor	Beach	West Atlantic Neighborhood	South Pairs
						Secondary Streets: 10 ft. min./ 15 ft. max.
B	Side Setback ¹	0 ft. or 5ft. min. ²	0 ft. or 5 ft. min. ²	0 ft. or 5ft. min. ²	0 ft. or 5ft. min. ²	0 ft. or 5ft. min. ²
C	Rear Setback	10 ft. min.	10 ft. min.	10 ft. min.	10 ft. min.	10 ft. min. 20 ft. min. above the 2 nd Story ⁴
B C	Side Setback Abutting Res. District; 1 st to 3 rd Story	10 ft. min.	10 ft. min.	10 ft. min.	10 ft. min.	<u>10 ft. min.</u>
B C	Side/Rear Setback Abutting Res. District Above 3 rd Story	30 ft. min.	30 ft. min.	30 ft. min.	30 ft. min.	<u>30 feet</u>
D	Front Setbacks Above 3 rd Story ¹	20 ft. min.	20 ft. min.	20 ft. min.	20 ft. min.	20 ft. min.
E	Building Frontage Required on Primary Streets	75% min./ 100% max.	N/A	75% min./ 100% max.	75% min/ 100% max.	60% min/ 100% max.
Building Height						
	Min. Building Height on Primary Streets	1 Story and 18 ft.	1 Story	1 Story and 18 ft.	1 Story	1 Story and 18 ft.
	Max. Building Height in Atlantic Avenue Limited Height Area	3 Stories and 38 ft.	N/A	N/A	N/A	N/A
	Max. Building Height in South Pairs Neighborhood Limited Height Area	N/A	N/A	N/A	N/A	4 Stories and 48 feet.

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Table 4.4.13 (C) Dimensional Requirements by CBD Sub-district					
	Central Core	Railroad Corridor	Beach	West Atlantic Neighborhood	South Pairs
<u>Max. Building Height in West Atl. Neigh. Limited Height Area</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>3 stories and 35 ft</u>	<u>N/A</u>
Max. Height outside of Limited Height Areas	4 Stories and 54 ft.	4 Stories and 54 ft.	4 Stories and 54 ft.	4 Stories and 54 ft.	4 Stories and 54 ft.
Density					
Density	30 du/ac	30 du/ac	12 du/ac	12 du/ac ³	12 du/ac ³
Civic Open Space Requirement (See Section 4.4.13(G))					
Sites smaller than 20,000 sq.ft.	0%	0%	0%	0%	0%
Sites Between 20,000 and 40,000 sq. ft.	5% of area above 20,000	5% of area above 20,000	5% of area above 20,000	5% of area above 20,000	3% of area above 20,000
Sites Greater than 40,000 sq. ft.	5% of area above 20,000 + 9% of area above 40,000	5% of area above 20,000 + 9% of area above 40,000	5% of area above 20,000 + 9% of area above 40,000	5% of area above 20,000 + 9% of area above 40,000	3% of area above 20,000 + 5% of area above 40,000

N/A is "Not Applicable"

¹ Side lot lines facing streets are regulated by front setback requirements. Side lot lines along alleys are regulated by rear setbacks.

² See Section 4.4.13(D)(1)(b)(2).

³ See Incentive Program in Section 4.4.13(H) for potential density increases pursuant to certain location and performance criteria.

⁴ See Section 4.4.13(D)(2)(a)(3) for additional setback standards.

Section 7. All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

Section 8. 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 this Ordinance.

Section 9. Specific authority is hereby given to codify this Ordinance.

Section 10. That this ordinance shall become effective immediately upon its passage on second and final reading.

*NOTE: The proposed amendments assume the adoption of Ordinance 06-19 (formerly 36-19).

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PASSED AND ADOPTED in regular session on second and final reading on this the _____ day of _____, 2020.

ATTEST:

Shelly Petrolia, Mayor

Katerri Johnson, City Clerk

First Reading_____

Second Reading_____

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney

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