



Cover Memorandum/Staff Report

File #: 20-830

Agenda Date: 10/20/2020

Item #: 8.C.

No. TO: Mayor and Commissioners
FROM: Anthea Gianniotis, Development Services Director
THROUGH: Jennifer Alvarez, Interim City Manager
DATE: October 20, 2020

ORDINANCE NO. 41-20: 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 2, "ADMINISTRATIVE PROVISIONS," ARTICLE 2.4, "GENERAL PROCEDURES," SECTION 2.4.3, "SUBMISSION REQUIREMENTS," TO REMOVE THE DEVELOPMENT SERVICES FEE SCHEDULE FROM THE LAND DEVELOPMENT REGULATIONS AND TO UPDATE THE PROCEDURES FOR ESTABLISHING AND AMENDING DEVELOPMENT APPLICATION PROCESSING FEES; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AUTHORITY TO CODIFY; AND PROVIDING AN EFFECTIVE DATE (SECOND READING).

Recommended Action:

Review and consider a request to approve Ordinance No. 41-20, a City-initiated amendment to LDR Section 2.4.3(K), Fees, to remove the Delray Beach Development Services Fee Schedule from the Land Development Regulations (LDRs) and establish procedures for adopting Development Services Fees.

Background:

From time to time, the City of Delray Beach finds it appropriate to review the Development Services Fee Schedule and update application fees based on analysis and comparison to surrounding municipalities. Development Services fees are typically updated every two years, since the Department was directed to do so by the City Commission in 2003. However, the most recent update to the Fee Schedule was adopted in 2015.

Staff determined that removing the fee schedule from the Land Development Regulations (LDRs) provides a simpler, more appropriate procedure for updating the fee schedule over time. Fees are not regulatory standards and do not require analyses related to performance standards, etc. or Comprehensive Plan policies, which are part of a typical ordinance review. The City generally uses resolutions to establish financial agreements. Using a resolution is also more simple administratively, particularly when a new fee is adopted. For example, two new fees (Zoning Certificate of Use and Murals) have been added since 2018 and were adopted by Resolution. It is appropriate to establish the requirement for fees associated with development applications in the LDRs, while adopting the applicable fee schedule by a separate action by City Commission. Subsequent to adoption of the proposed LDR amendment, the City Commission will review and approve a resolution adopting the fee schedule at one public hearing. The updated fee schedule, will be reviewed as part of Resolution No. 133-20, concurrent with second reading of this ordinance.

The proposed amendment removes fees for both Planning and Zoning and Building from the LDRs; however, updates to the Fee Schedule in the proposed Resolution No. 133-20 only modify fees for Planning and Zoning - not Building. Building fees remain as previously adopted.

Pursuant to **LDR Section 1.1.6, Amendments**, *the text of these Land Development Regulations may from time to time be amended, changed, supplemented, or repealed. No such action however, shall be taken until a recommendation is obtained from the Planning and Zoning Board and until a public hearing has been held by the City Commission.* Pursuant to **LDR Section 2.4.5(M)(1)**, amendments to the Land Development Regulations may be initiated by the City Commission, Planning and Zoning Board or City Administration; or an individual.

The proposed amendment was initiated by staff in response to direction by the City Commission in 2003 to update the Development Services Fee schedule every two years.

Pursuant to **LDR Section 2.4.5(M)(5), Findings**, *the City Commission must make a finding that the text amendment is consistent with and furthers the Goals, Objectives and Policies of the Comprehensive Plan.* The following Objective and Policy of the adopted Comprehensive Plan are applicable to the proposed amendment:

- **Neighborhoods, Districts, and Corridors Element, Objective NDC 3.5.** *Regularly review and update the Land Development Regulations to provide timely, equitable and streamlined processes including, but not limited to, building permit processes for residential developments and to accommodate mixed-use developments, address market changes and development trends, and other innovative development practices.*
- **Economic Development Element, Policy ECP 6.3.2.** *Encourage predictability and consistency in the City's Land Development Regulations, while also allowing for flexibility and creativity in the site development process.*

The proposed amendment to LDR Section 2.4.3(K) provides a process improvement for updating Development Services application fees by streamlining the process to adopt a revised fee schedule.

On September 21, 2020, the Planning and Zoning Board reviewed Ordinance No. 41-20 and recommended approval (7-0).

City Attorney Review:

Ordinance No. 41-20 is approved to form and legal sufficiency.

Funding Source/Financial Impact:

NA

Timing of Request:

Resolution No. 133-20, adopting a Development Services fee schedule, will be presented concurrent with the 2nd reading of this ordinance on October 20, 2020.