

ORDINANCE NO. 27-21

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 4, "ZONING REGULATIONS," ARTICLE 4.3 "DISTRICT REGULATIONS, GENERAL PROVISIONS," SECTION 4.3.3, "SPECIAL REQUIREMENTS FOR SPECIFIC USES," TO ADD SUBSECTION 4.3.3(R) "RESTAURANTS" TO PROVIDE REGULATIONS FOR RESTAURANTS AND TO RENUMBER SECTION 4.3.3 (R) "KEEPING OF LIVESTOCK" TO SECTION 4.3.3 (RRR); AMENDING ARTICLE 4.4 "BASE ZONING DISTRICT" SECTION 4.4.9, "GENERAL COMMERCIAL (GC) DISTRICT," SUBSECTION (B), "PRINCIPAL USES AND STRUCTURES PERMITTED," SECTION 4.4.11, "NEIGHBORHOOD COMMERCIAL," SUBSECTION (B), "PRINCIPAL USES AND STRUCTURES PERMITTED", SECTION 4.4.13, "CENTRAL BUSINESS DISTRICT (CBD)," TABLE 4.4.13(A), "ALLOWABLE USES AND STRUCTURES IN THE CBD SUB-DISTRICTS," TABLE 4.4.13(L), "MINIMUM NUMBER OF OFF-STREET PARKING SPACES REQUIRED IN THE CBD," SECTION 4.4.13, SUBSECTION (K), "CBD REVIEW AND APPROVAL PROCESS," SECTION 4.4.14, "RESORT/TOURISM (RT) DISTRICT," SUBSECTION B, "PRINCIPLE USE AND STRUCTURES PERMITTED," SUBSECTION (C), "ACCESSORY USES AND STRUCTURES PERMITTED," SECTION 4.4.15, "PLANNED OFFICE CENTER (POC) DISTRICT," SUBSECTION (D), "CONDITIONAL USES AND STRUCTURES ALLOWED," AND SECTION 4.4.24, "OLD SCHOOL SQUARE HISTORIC ARTS DISTRICT (OSSHAD)," SUBSECTION (B), "PRINCIPAL USES AND STRUCTURES PERMITTED" TO UPDATE DEFINITIONS WITHIN ZONING DISTRICTS; TO AMEND ARTICLE 4.6, "SUPPLEMENTAL DISTRICT REGULATIONS" BY AMENDING SECTION 4.6.9, "OFF-STREET PARKING REGULATIONS," SUBSECTION (A), "PURPOSE AND INTENT," SUBSECTION (B), "APPLICABILITY" SUBSECTION (C), "NUMBER OF PARKING" TO CLARIFY THE PURPOSE, INTENT, APPLICABILITY OF PARKING REQUIREMENTS AND UPDATE RESTAURANT PARKING DEFINITIONS; TO AMEND APPENDIX A, "DEFINITIONS" TO UPDATE RESTAURANT DEFINITIONS; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AUTHORITY TO CODIFY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Delray Beach Land Development Regulations (“LDR”) occasionally require updates to ensure consistency with market practices, especially for restaurants and retail establishments serving food and beverage for on or off-site consumption; and

WHEREAS, the adopted LDR does not currently regulate restaurant parking uses in a manner consistent with the changing dynamics of the restaurant industry; and

WHEREAS, the regulation of off-street parking is important to achieving the overall mobility goals of all transportation users, including visitors, employees, and residents and providing for a balanced, reliable transportation system; 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 LDR at a public hearing on October 18, 2021 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 LDR; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. The recitations set forth above are incorporated herein.

Section 2. Article 4.3, “District Regulations, General Provisions,” Section 4.3.3, “Special Requirements for specific uses,” of the Land Development Regulations of the City of Delray Beach Code of Ordinances is hereby amended as follows:

- (R) ~~Keeping of livestock. The keeping, maintaining, or pasturing of horses, cattle, mules, goats, sheep, swine, poultry, or other livestock in the City of Delray Beach is prohibited except on property within the Agricultural (A) and Rural Residential (RR) Zone Districts and then only in compliance with provisions of those regulations.~~

Notes:

- ~~• Subsection (S) Junkyards deleted in its entirety.~~
- ~~• Enacted the following new Subsection (S) Telecommunication Towers and Antennas.~~

Restaurants. A restaurant is a commercial establishment whose principal business is the preparation, service, and selling of food to customers for consumption on or off the premises during all hours of operation. All restaurant establishments shall be appropriately licensed, equipped, staffed, and managed as a restaurant, with the provisions for specific restaurants further defined in this

section. Where alcoholic beverages are sold, restaurant establishments must derive no less than 51 percent of its gross revenue from the sale of food and non-alcoholic beverages.

(1) Bona fide Restaurant Requirements:

- (a) Full Course Meals.** Table service and full course meals must be continually offered during all hours of operation. Pursuant to Florida Statutes as may be amended from time-to-time, full course meals shall include a salad or vegetable, entrée, a beverage, and bread.
- (b) Facility and Staff Requirements.** Full course meals must be prepared in a kitchen facility as required by state regulatory bodies for the establishment type, that are located in a completely enclosed room, under roof of the main structure, or in an interior court, with food preparation staff available for the service of full course meals during all hours of operation.
- (c) Customer Service Areas.** Customer service areas must be defined on a site plan and include the location of all tables and chairs where the consumption of food and drink will take place.

 - 1. Adequate space must be provided to accommodate the service of full course meals at each customer service area.
 - 2. The total number of seats or chairs at the tables, customer counters and bars within the customer service area must match the occupancy requirements of a restaurant.
- (d) Ancillary Service Areas:** Additional service areas may include customer counters (“take out” or “walk-ups” area), banquet rooms, and catering preparation areas. Areas where additional seating is provided will be included in the calculation for required parking.
- (e) Occupancy Requirements.** The full occupant load shall be determined in accordance with the provisions of the Florida Building Code and Florida Fire Code or any successor code(s).
- (f) Sales Requirements.** At least 51 percent of the gross food and beverage revenue shall come from the sale of food and non-alcoholic beverages.
- (g) Prohibitions.**

1. Limited indoor dining and the associated provisions.
2. Service to customers not seated within a customer service area.

(2) Fast Casual Restaurant Requirements:

- (a) Facility and Staff Requirements.** Food menu items must be prepared in a kitchen facility as required by state regulatory bodies for the establishment type, that are located in a completely enclosed room, under roof of the main structure, or in an interior court, with food preparation staff available to prepare meals during all hours of operation.
- (b) Customer Service Areas.** Customer service area(s) must be defined on a site plan and include the location of all tables and chairs where the consumption of food and drink will take place.
 1. Customer service areas must indicate the location where the consumption of food and drink is proposed at tables and chairs and provide adequate space to accommodate the service of meals.
 2. The total number of seats or chairs at the tables, customer counters and bars within the customer service area must match the occupancy requirements of a restaurant.
- (c) Ancillary Service Areas:** Additional service areas may be allowed or further restricted by zoning district and include a barbeque pit stand, catering preparation areas, drive-throughs, drive-ins, and customer counters (“take out” or “walk-ups” area).
- (d) Occupancy Requirements.** The full occupant load shall be determined in accordance with the provisions of the Florida Building Code and Florida Fire Code or the respective successor code(s).
- (e) Limited Indoor Dining.** Fast casual restaurants may provide limited indoor dining.
- (f) Sales Requirements.** At least 51 percent of the gross food and beverage revenue from the sale of food and non-alcoholic beverages.
- (g) Prohibitions.**

1. Table service to unseated customers.
2. Indoor seating for more than eight patrons.

- (3) **Limited Indoor Dining.** The provision of up to eight individual seats within a restaurant or retail establishment where the minimum required parking is reduced to the requirement for commercial or retail uses based on the zoning district. Retail establishments providing limited indoor dining shall meet Florida Statutory and regulatory requirements based on the establishment food service license.
- (4) **Parking.** Except where provided herein, the minimum off-street parking requirements shall be provided in accordance with the applicable zoning district regulations or Sections 4.6.9 or 4.4.13.

Section 3. Section 4.3.3 “Special requirements for specific uses” Subsection (R) “Keeping of livestock,” of the LDR is hereby amended as follows:

(RRR) Keeping of livestock. The keeping, maintaining, or pasturing of horses, cattle, mules, goats, sheep, swine, poultry, or other livestock in the City of Delray Beach is prohibited except on property within the Agricultural (A) and Rural Residential (RR) Zone Districts and then only in compliance with provisions of those regulations.

Section 4. Section 4.4.9, “General Commercial (GC) District,” Subsection (B), “Principal uses and structures permitted” of the Land Development Regulations of the City of Delray Beach, Florida, is hereby amended as follows:

- (B) Principal uses and structures permitted. The following are allowed within the GC District as permitted uses, except as modified in the Four Corners Overlay District by Section 4.4.9(G)(3)(a).

(1) – (3) (These subsections shall remain in full force and effect as adopted)

- (4) Services and Facilities including, but not limited to:

- (a) Auctions, barber and beauty shops and salons, caterers, dry cleaning limited to on-site processing for customer pickup only, dry cleaning and laundry pickup stations, financing e.g. banks and similar institutions including drive-through facilities, laundromats limited to self-service facilities, pet grooming, ~~restaurants including drive-in and drive-through~~, tailoring, tobacconist, vocational schools limited to arts and crafts, business, beauty, dancing, driving, gymnastics, photography, modeling, and karate-

judo, small item repair, Neighborhood Electric Vehicle (NEV) sales, lease or rental transactions only (no inventory on-site for any purpose), and rental of sporting goods and equipment (such as but not limited to bicycles, skates, boogie boards). With the exception of bicycles with an electric-helper motor as defined in Section 72.02, Delray Beach Code of Ordinances, all rented sporting goods must be non-motorized.

- (b) Abused spouse residence with 40 or fewer residents, galleries, broadcast studios, butcher shops, cocktail lounges, exercise facilities e.g. gyms and clubs, indoor shooting ranges, museums, libraries, newsstands, commercial or public parking lots and parking garages, theaters excluding drive-ins.
- (c) Restaurants including bona fide and fast casual restaurants pursuant to Section 4.4.3(R).

(5)-(10) (These subsections shall remain in full force and effect as adopted)

Section 5. Section 4.4.11, “Neighborhood Commercial (NC) District,” Subsection (B), “Principal uses and structures permitted” of the LDRs of the City of Delray Beach, Florida, is hereby amended as follows:

- (B) Principal uses and structures permitted. The following types of uses are allowed within the NC District subject to the limitations per Subsection (H) as a permitted use:
 - (1) (This subsection shall remain in full force and effect as adopted)
 - (2) Provision of services such as: barber and beauty shops; dry cleaning limited to on-site processing for customer pickup only; dry cleaning and laundry pickup stations; vocational schools limited to arts and crafts, business, beauty, dancing, driving, gymnastics, photography, modeling, and karate-judo; financing e.g. banks and similar institutions excluding drive-through facilities; laundromats limited to self-service facilities; Neighborhood Electric Vehicle (NEV) sales, lease or rental transactions only (no inventory on site for any purpose), restaurants including bona fide restaurants or fast casual establishments ~~dining at sit down restaurants including takeout and ice cream parlors~~ but excluding drive-in and drive-throughs ancillary facilities; newsstands pursuant to LDR 4.4.3 (R).
 - (3) – (4) (These subsections shall remain in full force and effect as adopted)

Section 6. Section 4.4.13, “Central Business (CBD) District,” Table 4.4.13(A), “Allowable Uses and Structures in the CBD Sub-Districts of the LDRs of the City of Delray Beach, Florida, is hereby amended as follows:

Table 4.4.13(A)—Allowable Uses and Structures in the CBD Sub-Districts				
	Central Core	Railroad Corridor	Beach Area	West Atlantic Neigh.⁵
General retail uses and/or facilities, as in GC district (4.4.9) ^{1 2}	P	P	P	P
Business, professional, and medical uses, as in GC district (4.4.9)	P	P	P	P
Services and facilities, as in GC district (4.4.9), excluding drive-through facilities	P	P	P	P
Multiple-family dwellings ³	P	P	P	P
Community residences	See 4.4.13(C)(4)(a)			
Nursing homes, abused spouse residences, continuing care facilities, and assisted living facilities that do not comport with the definition of "community residence"	P	P	P	P
Live/work units (see 4.3.3(KKK))	P	P	P	P
Hotels, motels, and residential-type inns ³ (see 4.3.3(M) and 4.3.3(X))	P	P	P	C
Bed and breakfast inns (see 4.3.3 (Y))	P	P	P	C
Public Parking Garages, as mapped on a Regulating Plan	P,S	P,S	P,S	P,S
Fabrication and/or Assembly	-	P	-	-
Wholesaling, Storage, and Distribution ⁴	-	P	-	-
Contractor and trade services	-	P	-	-
Automobile brokerage, including vehicle display within an enclosed structure	-	P	-	-
Tattoo Establishments (see 4.3.3(ZB) (Ord. No. 33-16, § 4, 11-15-16)	P,A	P,A	P,A	P,A
CBD Oil Establishments (see 4.3.3 (CC))	P,A	P,A	-	-
Family day care homes (see 4.3.3(T))	A	A	A	A
Home occupations (see 4.3.3(K))	A	A	A	A
Mechanical parking lifts (see 4.6.9(D)(11) and 4.6.9(F)(4))	A,S	A	A,S	A,S
Parking areas, passenger drop-off, loading/unloading	A,S	A,S	A,S	A,S
Automated parking garages	-	S	-	-
Refuse and service areas	A,S	A,S	A,S	A,S
Recreational facilities (for a multiple-family development)	A	A	A	A
Services and repair (incidental to the principal use)	A,S	A	A,S	A,S
Single-family dwelling (occupied by owner, proprietor, or employee of the principal use)	A	A	A	A
Storage of inventory (not shared or leased independent of the principal use)	A,S	A	A,S	A,S
Automobile repair	-	C	-	-
Child care Facilities (see 4.3.3(E)) and adult day care facilities (see 4.3.3(F))	C	C	C	C
Commercial recreational facilities, such as bowling alleys and skating rinks	C	C	C	C
Drive-through facilities (serving banks, financial institutions, retail uses, etc.) ² See 4.4.13(J)(7)(a)	C	C	C	C
Food Preparation and/or Processing including bakeries and	-	C	-	-

catering				
Funeral homes, including accessory uses such as a chapel or crematory	C	C	C	C
Gasoline stations (See 4.4.13(J)(7)(b) and/or car washes (See 4.4.13(J)(7)(c))	C	C	-	-
Large family child care homes (see 4.3.3(TT))	C	C	C	C
Dry-cleaning Processing Plants	-	C	-	-
Segway tours and Segway sales (see 4.3.3(ZZZZ))	C	C	C	C
Theaters, excluding drive-ins	C	C	C	C
Veterinary Clinics	C	C	C	C
24-hour or late-night businesses, within 300 feet of residential zoned property [see 4.3.3(VV)]	C	C	C	C
Urban Agriculture [4.3.3 (D)] excluding outdoor Urban Farms	P, A	P, A	-	P, A
Outdoor Urban Farms [4.4.3(D)]	C	C	C	C
LEGEND: P = Principal Use A = Accessory Use C = Conditional Use - = Prohibited Use S = Secondary Street Use				

1 Sales of automotive parts, lawn care equipment, firearms, or secondhand material (other than verifiable antiques) are not allowed on properties facing a designated Required Retail Street on the Regulating Plan or anywhere within the West Atlantic Neighborhood.

2 ~~Fast Casual establishments with drive-throughs and drive-in ancillary uses are prohibited within the CBD. Drive-thru and Drive-in restaurants are not permitted within the CBD.~~

3 For density limits, see Table 4.4.13(C).

4 Not self-storage facilities; products and materials shall not exceed 55 gallons of any substance which is listed on the Generic Substances List of the Palm Beach County Wellfield Protection Ordinance (Ref.: Palm Beach County LDC, Article 9, Section 9.3)

5 See Section 4.4.13(C)(4)(a) for limits on commercial use locations in the West Atlantic Neighborhood Sub-district.

Section 7. Section 4.4.13, “Central Business (CBD) District,” Table 4.4.13 (L), “Minimum Number of Off-street Parking Spaces Required in the CBD,” of the Land Development Regulations of the City of Delray Beach, Florida, is hereby amended as follows:

Table 4.4.13(L) Minimum Number of Off-street Parking Spaces Required in the CBD	
<i>Commercial Uses</i>	
Hotels/Motels ¹	0.7 space per guest room plus 1 space per 800 sf. of meeting rooms and shops
Business and Professional Office <10,000 sf	1 space per 500 sf. of net floor area
Business and Professional Office >10,000 sf located more than 750 feet from a public parking garage or Planned Tri-Rail Coastal Link station	1 space per 300 sf. of net floor area
Business and Professional Office >10,000 sf located within 750 feet of a public parking garage or Planned Tri-Rail Coastal Link station	1 space per 500 sf. of net floor area
Retail and Commercial Uses ²	1 space per 500 sf. of gross floor area
Restaurants and lounges (including those located within hotels/motels) NOT in the Atlantic Avenue Parking District ³	6 spaces per 1,000 sf. of gross floor area
Restaurants and lounges (including those located within	12 spaces per 1,000 sf. for the first 6,000 sf. Plus 15

hotels/motels) in the Atlantic Avenue Parking District ³	spaces per each additional 1,000 sf.
<i>Residential</i>	
Community Residence	The number of off-street spaces required by Section 4.6.9(C)(7)(1) of these Land Development Regulations
Efficiency Dwelling Unit	1 space per unit
One Bedroom Dwelling Unit	1.25 spaces per unit
Two or More Bedroom Dwelling Unit	1.75 spaces per unit
Guest Parking shall be provided cumulatively as follows	
- For the first 20 units	0.50 spaces per unit
- For units 21-50	0.30 spaces per unit
- For units 51 and above	0.20 spaces per
Live/Work Units	2 spaces per unit
<i>Alternative Fuel Parking Spaces</i>	
Residential	3% of Required Parking Spaces
Commercial	3% of Required Parking Spaces

¹ When parking spaces are not required, but are provided, then 3% of those provided shall be an Alternative Fuel space.

² Including establishments that qualify for either limited indoor dining pursuant to LDR 4.4.3 (R) or a sidewalk café pursuant to LDR 6.3.3.

³ Excluding establishments with limited indoor dining pursuant to LDR 4.4.3 (R) or a sidewalk café pursuant to LDR 6.3.3.

Section 8. Section 4.4.13, “Central Business (CBD) District,” Subsection (K), “CBD Review and Approval Process,” of the LDRs of the City of Delray Beach, Florida, is hereby amended as follows:

(K) ***CBD review and approval process.***

(1)-(3) (These subsections shall remain in full force and effect as adopted)

(4) Conditional uses. Conditional uses listed on Table 4.4.13(A) may be considered pursuant to the provisions of Section 2.4.5(E). In addition, the following regulations apply:

(a) ***Drive-through facilities.***

1. Restaurants with drive-throughs or drive-in ancillary uses
~~Drive-in or drive-through restaurants~~ are not permitted the CBD zoning district boundaries.
2. On Primary Streets, drive through facilities serving banks and other commercial uses shall have the drive through window(s) and stacking area located behind buildings. On Secondary Streets, drive through facilities may be located to the rear or side of buildings.

(b)-(f) (These subsections shall remain in full force and effect as adopted)

(5) (This subsection shall remain in full force and effect as adopted)

Section 9. Section 4.4.14, “Resort/Tourism (RT) District,” Subsection (B), “Principal uses and structures permitted” and (C), “Accessory uses and structures permitted” of the LDRs of the City of Delray Beach, Florida, is hereby amended as follows:

(B) *Principle use and structures permitted.* The following types of use are allowed within the RT District as a permitted use:

(1)-(3) (This subsection shall remain in full force and effect as adopted)

(4) Service and Specialty Uses including Beauty and Barber Shops, fast casual establishments, ~~Delicatessens, Ice Cream Parlors~~, Gift Shops, Newsstands, and specialty food shops (including on-site preparation and service).

(C) *Accessory uses and structures permitted.* The following uses are allowed when a part of, or accessory to, the principal use:

(1) Parking Lots;

(2) Refuse and Service Areas;

(3) ~~Restaurants~~ Bars, and Lounges;

(4) Instructional classes associated with permitted entertainment and recreational uses.

(5) Sale of exhibits and accessory items associated with principalle entertainment and recreational uses.

(6) Restaurants including bona fide restaurants or fast-casual establishments pursuant to LDR 4.3.3 (R),

Section 10. Section 4.4.15, “Planned Office Center (POC) District,” Subsection (D), “Conditional uses and structures allowed” of the LDRs of the City of Delray Beach, Florida, is hereby amended as follows:

(D) *Conditional uses and structures allowed.* The following uses are allowed as conditional uses within the POC District:

(1) Restaurants including bona fide restaurants and fast casual establishments, excluding drive-in and drive-throughs ancillary uses pursuant to Section 4.4.3(R).
~~drive-through facilities.~~

(2)-(4) (These subsections shall remain in full force and effect as adopted)

Section 11. Section 4.4.24, “Old School Square Historic Arts District (OSSHAD),” Subsection (B), “Principal uses and structures,” of the LDRs of the City of Delray Beach, Florida, is hereby amended as follows:

- (B) *Principal uses and structures.* The following types of uses are allowed within the OSSHAD as a permitted use:

(1)-(6) (These subsections shall remain in full force and effect as adopted)

- (7) ~~Restaurants of a sit-down nature such as a~~ Bona fide restaurants and fast-casual establishments, cafe, snack shop, full-service dining but excluding any drive-in or drive-through ancillary uses, pursuant to Section 4.4.3(R), and/or drive-through facilities or features.

(8)-(15) (These subsections shall remain in full force and effect as adopted)

Section 12. Section 4.6.9, “Off-street parking regulations,” Subsection (A), “Purpose and intent,” Subsection (B), “Applicability,” and Subsection (C), “Number of parking spaces required” of the LDRs of the City of Delray Beach, Florida, is hereby amended as follows:

- (A) Purpose and intent. The purpose of this Section is to ~~ensure that adequate~~ provide off-street parking ~~is provided to meet the needs of for visitors and employees to a site while efficiently utilizing developable lands, parking users of structures and usage of land.~~ All parking areas shall be designed and situated ~~so as to ensure their usefulness~~ functionality, to intuitively provide ingress and egress to parking areas from a street or alley, protect the public safety, and where appropriate, and to mitigate parking related potential adverse impacts on adjacent uses and properties. ~~It is the responsibility of the developer of property to provide and maintain adequate off street parking. The provision and maintenance of off-street parking, in accordance with an approved site plan, is the responsibility of the property owner.~~

- (B) Applicability.

- (1) ~~The provision of~~ Off-street parking facilities shall be provided in required for the following situations:

- (a) ~~For any new building constructed~~ New development or building construction;
- (b) ~~For any new category of use established including a new conditional use~~ A change in use for an existing site with an established development or approved use;
- (c) ~~For any~~ An addition or enlargement expansion of an existing building or approved use;
- (d) ~~For any~~ A change in the occupancy of an existing building or the manner in which a use is conducted that would result in additional parking spaces being required.

- (2) For items (c) and (d) from above, ~~the additional parking spaces shall be required only for such an~~ addition, enlargement expansion, or change in use, and not for

~~the entire~~ an existing portion of the building or use, unless required as a condition of approval ~~associated with the approval of~~ for the addition, ~~enlargement expansion~~, or change in use.

- (3) When existing parking is ~~diminished~~ eliminated by an addition, building expansion or other site improvements, ~~or enlargement~~ and ~~such the parking had been~~ was previously required, or would be required if the use were established at ~~this point in the time of application~~, such the same amount of eliminated parking spaces must be replaced and be in addition to those spaces required for the addition, ~~expansion, or change in use.~~ or enlargement.
 - (4) Notwithstanding the foregoing, effective January 1, 2005, if private land is acquired by a governmental entity for parking or park purposes, the parking spaces attributed to the demand created by the building square footage and use that existed on the land acquired by the governmental entity (less the number of spaces that existed on the property so acquired) shall be credited to land owned by private owner(s) if the land owned by the private owner(s) is located within 300 feet of the land acquired by the governmental entity for parking or park purposes.
 - (5) The requirements of this Section shall apply for temporary uses as well as permanent uses.
- (C) *Number of parking spaces required.* The number of parking spaces required shall be determined by the following standards for uses and categories of uses and types of parking spaces. ~~for new buildings, new uses, additions, enlargements, or changes shall be determined by the following standards for uses and categories of use and types of parking spaces.~~
- (1) - (2) (These subsections shall remain in full force and effect as adopted)
 - (3) *Requirements for commercial uses.*
 - (a) - (c) (These subsections shall remain in full force and effect as adopted).
 - (d) *Restaurants.* ~~Inclusive of drive-ins, drive-thru, snack shops, night clubs, lounges shall provide 12 spaces per 1,000 square feet of gross floor area up to 6,000 square feet and then 15 spaces per 1,000 square feet of gross floor area over the initial 6,000 square feet. All other uses (deli, sandwich shops, coffee shops, sub shops, etc.) not classified as a restaurant, but otherwise qualifying for a sidewalk café permit which have no inside seating shall be considered a general commercial use with respect to parking requirements. All other uses (deli, sandwich shops, coffee shops, sub shops, etc.) which have inside seating shall be considered a restaurant use with respect to parking requirements.~~
 1. Bona Fide Restaurants and Fast Casual Restaurants, or any similar establishment exceeding the limited indoor provision shall provide 12 spaces per 1,000 square feet of gross floor area.

2. Fast casual establishments without indoor seating or with limited indoor dining seating shall be considered a general commercial use with respect to parking.

3. Restaurant seating located within an approved sidewalk café is subject to the requirements of Section 6.3.3(F), Sidewalk Cafes: Use, design, and maintenance of a sidewalk café.

(e) - (g) (These subsections shall remain in full force and effect as adopted).

(h) Bars, Night clubs and cocktail lounges shall provide 12 spaces per 1,000 square feet of gross floor area.

(4) – (8) (These subsections shall remain in full force and effect as adopted).

Section 13. Appendix A, “Definitions” of the LDRs of the City of Delray Beach, Florida, is hereby amended as follows:

FAST-CASUAL ESTABLISHMENT. A type of restaurant establishment where selling, dispensing, or serving of food, refreshments, or beverages is prepared or made to order for take-out or seated dining without table service.

DRIVE-THROUGH. An establishment ancillary use, typically associated with a type of restaurant, where food can be ordered and received from either a walk-up window or from a vehicle in an expeditious manner. Orders are typically prepared and served for take-out.

~~DRIVE-IN RESTAURANT OR REFRESHMENT STAND. An establishment ancillary use, typically associated with a type of restaurant, where selling, dispensing, or serving of food, refreshments, or beverages to patrons in automobiles on the premises and not within a completely enclosed building, including a barbeque stand or pit. Any place or premise where provision is made on the premises for the selling, dispensing, or serving of food, refreshments, or beverages in automobiles or on the premises or in other than a completely enclosed building on the premises. A restaurant which provides drive-in facilities of any kind in connection with regular restaurant activities shall be deemed a DRIVE IN RESTAURANT for purposes of these zoning regulations. A barbecue stand or pit having characteristics noted in this definition shall be deemed a DRIVE IN RESTAURANT.~~

~~DRIVE THRU RESTAURANT. Any place or establishment where provision is made on the premises for the selling, serving of food, or refreshments and beverages, and dispensing of such items in a manner where the customer orders from his vehicle, picks up his order, and leaves the premises. Such a customer may not eat or drink the food, refreshments, or beverages on the premises.~~

LIMITED INDOOR DINING. A fast casual or retail establishment with the provision of no more than eight seats provided indoors for customers to consume food or beverages prepared on site.

RESTAURANT (BONA FIDE).

~~(a) A bona fide restaurant is a premises that holds itself out to be primarily a restaurant, advertises as a restaurant, offers a complete menu as opposed to snacks, and derives more than 51% of its sales and service from food and non-alcoholic beverages. shall mean an establishment engaged primarily in the service of food where the sale or service of alcoholic beverages is incidental to the sale and service of food. A cafeteria or fast food establishment shall be deemed a bona fide restaurant for the purposes of zoning classification. All other establishments must meet the following criteria:~~

~~1. A bona fide restaurant must, during all hours of operation, continually offer food service consisting of full course meals;. Pursuant to Florida Statutes as may be amended from time to time, full course meals shall include a salad or vegetable, entrée, a beverage, and bread.~~

~~a. Full course meals shall include a salad or vegetable, entrée and dessert.~~

~~2. A bona fide restaurant must have full kitchen facilities as required by state regulatory bodies for the establishment type, which that are located in a completely enclosed room, under roof of the main structure, or in an interior court, and with food preparation staff capable of preparing and serving full course meals during all hours of operation.~~

~~3. A bona fide restaurant must have a customer service area consisting of tables, chairs, or customer counters. The tables or customer counters within the customer service area must be of adequate size to accommodate the service of full course meals.~~

~~4. In order for tables, chairs or customer counters to be included in the customer service area, the service of full course meals must be available at each seat or chair at each table or customer counter in the customer service area in accordance with the following:~~

~~a. The total number of seats or chairs at the tables, customer counters and bars within the customer service area must be sufficient to accommodate the maximum occupant load of the restaurant;~~

~~b. The full occupant load shall be determined in accordance with the provisions of the standard Florida Building Code or its successor code.~~

~~5. A bona fide restaurant shall derive no less than fifty one percent (51%) of its gross food and beverage revenue from the sale of food and non-alcoholic beverages.~~

Section 14. All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

Section 15. 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 of this Ordinance.

Section 16. Specific authority is hereby given to codify this Ordinance.

Section 17. 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 _____, 2021.

ATTEST:

Katerri Johnson, City Clerk

Shelly Petrolia, Mayor

First Reading_____

Second Reading_____

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney