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### Sec. 2.4.7. Procedures for obtaining relief from compliance with portions of the Land Development Regulations.

- (A) **Variations.** A variance is a relaxation of the terms of these land development regulations where such variance will not be contrary to the public interest and where owing to the conditions peculiar to the property and not the result of the actions of the landowner, a literal enforcement of the regulations would result in unnecessary and undue hardship.
- (1) **Rule.** A variance shall be granted only by the Board of Adjustment, or the Historic Preservation Board, and only for relief from regulations listed in Section 2.2.4(D), Powers of the Board of Adjustment. The Historic Preservation Board shall act on all variance requests within a Historic District or on a Historic Site, which otherwise would be acted upon by the Board of Adjustment. [Amd. Ord. 01-12 8/21/12]
  - (2) **Required information.** The following information including the appropriate processing fee must be provided for consideration of a variance:
    - (a) Standard Application Items pursuant to Section 2.4.3(A);
    - (b) A petition or application setting forth the requirements, with reference to code section, for which the variance is sought along with the basis for the associated hardship (a standard form petition issued by the Chief Building Official shall be used for requests heard by the Board of Adjustment and a Variance Application from the Planning and Zoning Department shall be used for requests heard by the Historic Preservation Board.) [Amd. Ord. 01-12 8/21/12]
  - (3) **Process.** A request for a variance shall be processed in the following manner:
    - (a) Receipt and certification as to completeness; [Amd. Ord. 01-12 8/21/12]
    - (b) Consideration at a public hearing before the Board of Adjustment or Historic Preservation Board; [Amd. Ord. 01-12 8/21/12]
    - (c) All actions are final unless an appeal is filed. Appeals to actions of the Board of Adjustment may be filed with the Circuit Court of Palm Beach County. Appeals to actions of the Historic Preservation Board may be filed with the City Commission. [Amd. Ord. 01-12 8/21/12]
  - (4) **Conditions.** The reviewing Board may prescribe appropriate conditions and safeguards, in conformity with existing regulations, to provide mitigation of any adverse impacts associated with a required finding. Violations of such conditions or safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of existing ordinances and punishable under Section 1.4.4. [Amd. Ord. 01-12 8/21/12]
  - (5) **Findings.** The following findings must be made prior to approval of a variance: [Amd. Ord. 01-12 8/21/12]
    - (a) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures, or buildings subject to the same zoning (The matter of economic hardship shall not constitute a basis for the granting of a variance);
    - (b) That literal interpretation of the regulations would deprive the applicant of rights commonly enjoyed by other properties subject to the same zoning;
    - (c) That the special conditions and circumstances have not resulted from actions of the applicant;
    - (d) That granting the variance will not confer onto the applicant any special privilege that is denied to other lands, structures, and buildings under the same zoning. Neither the permitted, nor

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nonconforming use, of neighborhood lands, structures, or buildings under the same zoning shall be considered grounds for the issuance of a variance;

- (e) That the reasons set forth in the variance petition justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; and,
  - (f) That the granting of the variance will be in harmony with the general purpose and intent of existing regulations, will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
- (6) **Alternative findings of the Historic Preservation Board.** The Board may be guided by the following to make findings as an alternative to the criteria above: [New Section added by Ord. 01-12 8/21/12]
- (a) That a variance is necessary to maintain the historic character of property and demonstrating that the granting of the variance would not be contrary to the public interest, safety, or welfare.
  - (b) That special conditions and circumstances exist, because of the historic setting, location, nature, or character of the land, structure, appurtenance, sign, or building involved, which are not applicable to other lands, structures, appurtenances, signs, or buildings in the same zoning district, which have not been designated as historic sites or a historic district nor listed on the Local Register of Historic Places.
  - (c) That literal interpretation of the provisions of existing ordinances would alter the historic character of the historic district, or historic site to such an extent that it would not be feasible to preserve the historic character of the historic district or historic site.
  - (d) That the variance requested will not significantly diminish the historic character of a historic site or of a historic district.
  - (e) That the requested variance is necessary to accommodate an appropriate adaptive reuse of a historic building, structure, or site:
- (B) **Waivers.** A waiver involves the granting of partial or total relief from a specific development regulation.
- (1) **Rule.**
- (a) **General.** A waiver may be granted to the procedural and substantive provisions of these regulations. A waiver may be granted only for those substantive items within these regulations for which such provision is made. A waiver to substantive provisions may be granted only by the Board or body which has the authority to approve or deny the related development application.
  - (b) **Special power to the City Commission.** Notwithstanding, the City Commission may grant a waiver to any provision of these regulations when there is no other avenue for relief available in these regulations. However, waivers shall not be considered with respect to:
    - (i) Matters which pertain to the use of land or structures;
    - (ii) A requirement for a public hearing or providing notice that an item will be considered by a development board;
    - (iii) A regulation for which it is stated that there shall be no waiver and/or variance provided.
- (2) **Required information.** The following information including the appropriate processing fee must be provided in order for a waiver to be considered: [Amd. Ord. 50-97 11/18/97]
- A formal letter of request within which the regulation which is to be waived, with reference to section number, is described along with justification for granting the waiver.

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- (3) **Procedure.** A request for waiver may be considered concurrently with the development application with which it is associated. If a waiver request is made after review by an advisory body has been completed, the waiver request must first be reviewed by that body prior to action by the approving body.
- (4) **Conditions.** Conditions may be imposed upon the granting of a waiver to the extent that they are directly related to mitigating any adverse effect which may be created by the waiver of a specific development regulation.
- (5) **Findings.** Prior to granting a waiver, the granting body shall make findings that the granting of the waiver:
- (a) Shall not adversely affect the neighboring area;
  - (b) Shall not significantly diminish the provision of public facilities;
  - (c) Shall not create an unsafe situation; and,
  - (d) Does not result in the grant of a special privilege in that the same waiver would be granted under similar circumstances on other property for another applicant or owner.
- (C) **Internal adjustments.** An adjustment involves the lessening, or a total waiver, of those development standards which affect the spatial relationship among improvements on the land.
- (1) **Rule.** An adjustment shall only be considered during the site and development plan review process and shall be only for requirements which do not pertain to, or affect, standards that apply to the perimeter of an overall development proposal (plan). An adjustment may be granted by the body or board which is empowered to approve or deny the site and development plan.
  - (2) **Required information.** The following information including the appropriate processing fee must be provided in order for an adjustment to be considered: [Amd. Ord. 50-97 11/18/97]
    - A formal letter of request within which the affected regulations, with reference to section number, are described along with justification for granting of the adjustment.
  - (3) **Procedure.** A request for adjustment shall be considered concurrently with the development application with which it is associated. If a request is made after review by an advisory body has been completed, the request must first be reviewed by that body prior to action by the approving body.
  - (4) **Conditions.** Conditions are not appropriate to the granting of an adjustment because the basis for granting the adjustment is that it provides a superior product than if the project were to comply with the letter of the regulations.
  - (5) **Findings.** Concurrent with granting relief from a development standard or regulation, the granting body must find that such relief does not diminish the practical application of the affected regulation (requirement) and that by granting such relief a superior development product will result.
- (D) **Administrative relief.** Administrative relief is the method whereby relief is granted from development regulations by an administrative official.
- (1) **Rule.** Administrative relief can be granted only for instances in which it is specifically allowed. The Director of Planning and Zoning, or City Manager when specifically designated under applicable LDR sections, are the only administrative officials who are empowered to grant administrative relief. [Amd. Ord. 76-94 10/18/94]
  - (2) **Required information.** The following information must be provided in order for administrative relief to be considered:

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- A formal letter of request within which the affected regulations, with reference to section number, are described along with justification for granting of the relief.
- (3) **Procedure.**
- (a) When Associated With A Site Plan Review: A request for relief shall be considered concurrently with the development application with which it is associated and shall be acted upon by the Administrative Official prior to consideration of the site plan. If the request for relief is denied, it may be considered again when the site plan is acted upon.
  - (b) When Not Associated With Site Plan Review: A request for relief shall be considered on its own merit pursuant to administrative processing requirements.
- (4) **Conditions.** Conditions may be applied only as they relate to insuring that the situation under which the relief is sought does not, or will not, change.
- (5) **Findings.** Prior to granting administrative relief, the administrative official shall find:
- (a) That the relief sought is consistent with the specific authorization provided for in these regulations;
  - (b) That the intent of the affected regulation is preserved; and,
  - (c) That the action will not be detrimental to the public health, safety, or welfare.
- (E) **Appeals.** An appeal is a request for a review and reversal of any action which if not appealed is final. An appeal shall be conducted as a new evidentiary hearing in accordance with the City's quasi-judicial procedures. [Amd. Ord. 49-06 9/19/06] (Ord. No. 12-17, § 2, 5-2-17)
- (1) **Rule.** An appeal may be made of an administrative interpretation or a decision made by an approving body. The appeal of an administrative interpretation shall be made to the board for which such power has been granted; an appeal of an approving board's action shall be made to the City Commission. All such actions are appealable unless an appeal is expressly prohibited. Only the applicant and the City Commission may appeal a decision to the City Commission. (Ord. No. 12-17, § 2, 5-2-17)
- (2) **Required information.** Except for an appeal initiated by the City Commission, an appeal must be made in writing, directed to the City Clerk, and must provide the following information: [Amd. Ord. 50-97 11/18/97] (Ord. No. 12-17, § 2, 5-2-17)
- The name of the appellant; (Ord. No. 12-17, § 2, 5-2-17)
  - Identification of the action being appealed;
  - Identification of who took the action and when it was made;
  - The basis of the appeal.
- (3) **Procedure.** The following procedures shall be adhered to in the processing of any appeal:
- (a) The appellant shall submit a letter, accompanied by the appropriate fee, to the City Clerk within ten business days of the decision or action being appealed. (Ord. No. 12-17, § 2, 5-2-17)
  - (b) If the appeal is initiated by the City Commission, a motion to appeal the action shall be made at the Commission meeting at which the Board's action is reported. (Ord. No. 12-17, § 2, 5-2-17)
  - (c) The hearing shall be held no more than 60 calendar days from date of the City Clerk's receipt of the request to appeal or, in the case of an appeal initiated by the City Commission, no more than 60 days after the meeting at which the decision to appeal was made, unless both the appellant and the City Commission or the board hearing the appeal mutually agree to postpone the hearing. (Ord. No. 12-17, § 2, 5-2-17)

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- (d) Upon the request of the appellant, the City Commission or the board hearing the appeal may grant a one-time postponement of the hearing upon a showing of good cause. All requests for postponement must be considered at the meeting prior to the scheduled appeal hearing. All postponement requests shall be submitted in writing to the City Clerk at least ten days prior to the meeting upon where the postponement request will be considered. In no case shall a postponement exceed 60 calendar days. (Ord. No. 12-17, § 2, 5-2-17)
  - (e) At the hearing, the subject of the appeal may be granted, granted with conditions, denied, or set for further consideration. (Ord. No. 12-17, § 2, 5-2-17)
  - (4) **Conditions.**
    - (a) The granting of an appeal of an interpretation or application of regulations is not subject to conditions.
    - (b) The granting of an appeal pertaining to a decision on a development application may be conditioned in the same manner as the development application may have been conditioned originally.
  - (5) **Standard of review.** (Ord. No. 12-17, § 2, 5-2-17)
    - (a) The appeal of an administrative interpretation may be granted upon a finding that the administrative officer's interpretation was plainly erroneous or inconsistent with the City's ordinances and regulations. (Ord. No. 12-17, § 2, 5-2-17)
    - (b) The appeal of a decision made by an approving body shall be subject to de novo review and shall not be limited to the record below. The appellant may offer or submit additional evidence and testimony at the hearing. (Ord. No. 12-17, § 2, 5-2-17)
  - (6) **Stay of previous action.**
    - (a) **General.** Whenever an appeal is filed, the action being appealed shall be stayed i.e. the development application or appealed part thereof shall be considered neither approved or denied.
    - (b) **Proceeding at risk.** If an appeal is filed for an action that is precedent for another action (e.g. site plan approval preceding plat approval), the applicant may proceed with the submittal and processing of further development applications but only at his or her own risk.
  - (F) **Special provisions.** The following special provisions for obtaining relief from compliance with a portion of the Land Development Regulations have been created to handle a singular and unique circumstance and shall be applied accordingly.
    - (1) **Congress Avenue widening impacts.** The City Commission has determined that the widening of Congress Avenue from two to six lanes in the years 1988 and 1989 has created unusual impacts upon previously developed properties and that in order to provide a vehicle for the equitable and efficient processing and approval of development orders, it is necessary and appropriate to establish a special land use review and approval procedure for such impacted properties.
      - (a) **Locational criteria.** The provisions of this subsection (F) shall be applicable to any property, the boundaries of which were impacted by a taking of right-of-way or by physical improvements associated with the widening of Congress Avenue as undertaken by Palm Beach County in the calendar years of 1988 and 1989; and which meet the other eligibility criteria of this subsection.
      - (b) **Impact prerequisite.** The property must have been impacted by the widening project in such a way as to have created a nonconforming situation or to have made an existing nonconforming situation greater. The provisions of this subsection shall not apply to the following:

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- Establishment or continuation of uses.
  - Property which was vacant and which is proposed for new development.
  - Property which will be totally redeveloped through the removal of existing improvements and the construction of new facilities and improvements. For the purpose of this subsection, "totally redeveloped" shall mean that demolition or removal of existing improvements shall be of a value equal to or greater than 50 percent of their value prior to demolition or removal.
  - Variances or development review for modifications to existing structures which do not involve a nonconforming situation.
- (c) **Expanded powers to the Planning and Zoning Board.** For property eligible under this subsection, the Planning and Zoning Board may exercise the following powers and authority in-lieu of the Board of Adjustment and the Site Plan Review and Appearance Board:
- Section 2.4.7(A) - Power to Grant Variances;
  - Section 2.4.5(F) - Approval of Site Plans;
  - Section 2.4.5(H) - Approval of Landscape Plan;
  - Section 2.4.5(I) - Approval of Elevations.
- (d) **Combination of review procedures.** Whenever review is permitted or required by the Planning and Zoning Board, pursuant to this subsection, said review shall be combined with the procedures established for site plan review [Section 2.4.5(F)]. However, individual applications forms, submittal materials, and processing fees as required for Board of Adjustment and Site Plan Review and Appearance Board review and action are required and shall be provided concurrent with the site and development plan application.
- (e) **Sunset Provisions:** Unless extended by action of the City Commission through modification of this subsection, the provisions of this subsection (F) shall become void on June 1, 1994.
- Note: "Automatic Sunset" Deleted per Assistant City Attorney's Memorandum of April 7, 1993.
- (G) **Requests for accommodation.** [New Section Created by Ord. 26-07 9/04/07] (Ord. No. 03-17, § 2, 1-24-17)
- (1) **Purpose.** The purpose of this section is to implement a procedure for processing requests for reasonable accommodation to the City's Code of Ordinances, Land Development Regulations, Rules, Policies, and Procedures for persons with disabilities as provided by the federal Fair Housing Amendments Act (42 U.S.C. 3601, et. seq.) ("FHA") and Title II of the Americans with Disabilities Amendments Act (42 U.S.C. Section 12131, et. seq.) ("ADAA"). For purposes of this section, a "disabled" person is an individual that qualifies as disabled and/or handicapped under the FHA and/or ADA. Any person who is disabled (or qualifying entities) may request a reasonable accommodation with respect to the City's Land Development Regulations, Code of Ordinances, rules, policies, practices and/or procedures as provided by the FHA and the ADA pursuant to the procedures set out in this section. [Amd. Ord. 04-12 2/21/12] (Ord. No. 03-17, § 2, 1-24-17)
  - (2) **Notice to the public of availability of accommodation.** The City shall display a notice in the City's public notice bulletin board (and shall maintain copies available for review in the Planning and Zoning Department, the Building Department, and the City Clerk's Office), advising the public disabled individuals (and qualifying entities) may request a reasonable accommodation as provided herein.
  - (3) **Application.** A request by an Applicant for reasonable accommodation under this section shall be either oral or written. A written request may be submitted by completion of a reasonable accommodation request form, which form is maintained by (and shall be submitted to) the

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Department of Planning and Zoning ("P&Z"). The reasonable accommodation form shall contain such questions and requests for information as are necessary for processing the reasonable accommodation request. The reasonable accommodation request form shall be substantially in the form set forth in Subsection 2.4.7(G)(8), below.

- (a) **Confidential information.** Should the information provided by the disabled individual to the City include medical information or records, including records indicating the medical condition, diagnosis or medical history of the disabled individual, such individual may, at the time of submitting such medical information, request that the City, to the extent allowed by law, treat such medical information as confidential information of the disabled individual. The City shall thereafter endeavor to provide written notice to the disabled individual, and/or their representative, of any request received by the City for disclosure of the medical information or documentation which the disabled individual has previously requested be treated as confidential by the City. The City will cooperate with the disabled individual, to the extent allowed by law, in actions initiated by such individual to oppose the disclosure of such medical information or documentation, but the City shall have no obligation to initiate, prosecute or pursue any such action, or to incur any legal or other expenses (whether by retention of outside counsel or allocation of internal resources) in connection therewith, and may comply with any judicial order without prior notice to the disabled individual.
  - (b) **Fee.** There shall be no fee imposed by the City in connection with a request for reasonable accommodation under this section or an appeal of a determination on such request to the City Council, and the City shall have no obligation to pay a requesting party's (or an appealing party's, as applicable) attorney's fees or costs in connection with the request, or an appeal.
  - (c) **City assistance.** The City shall provide such assistance and accommodation as is required pursuant to FHA and ADA in connection with a disabled person's request for reasonable accommodation, including, without limitation, assistance with reading application questions, responding to questions, completing the form, filing an appeal, and appearing at a hearing, etc., to ensure the process is accessible.
- (4) **Findings for reasonable accommodation.** In determining whether the reasonable accommodation request shall be granted or denied, the requesting party shall be required to establish that they or the occupants of the housing for which this request is made are protected under the Fair Housing Act and/or the Americans With Disabilities Act by demonstrating that they or the residents of the proposed housing are people with disabilities, as defined in these LDRs. (Ord. No. 25-17, § 2, 7-18-17)
- (a) The requesting party shall demonstrate that the proposed reasonable accommodations sought are reasonable and necessary to afford the subject individual(s) with disabilities an equal opportunity to use and enjoy the housing that is the subject of this request. (Ord. No. 25-17, § 2, 7-18-17)
  - (b) A request for reasonable accommodation to permit more than ten unrelated individuals to occupy a community residence shall be granted only when the requesting party also meets the standards for community residences promulgated in Section 4.3.3 (1)(4) of these LDRs. (Ord. No. 25-17, § 2, 7-18-17)
  - (c) The foregoing shall be the basis for a written decision with findings of fact upon a reasonable accommodation request made by the City Manager or designee, or by a Special Magistrate in the event of an appeal. (Ord. No. 25-17, § 2, 7-18-17)
- (5) **Notice of proposed decision.** The City Manager, or his/her designee, shall have the authority to consider and act on requests for reasonable accommodation. When a reasonable accommodation request form has been completed and submitted to the Planning and Zoning Department, it will be referred to the City Manager, or his/her designee, for review and consideration. The City Manager, or

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his/her designee, shall issue a written determination within 45 calendar days of the date of receipt of a completed application and may, in accordance with federal law, (1) grant the accommodation request, (2) grant a portion of the request and deny a portion of the request, and/or impose conditions upon the grant of the request, or (3) deny the request, in accordance with federal law. Any such denial shall be in writing and shall state the grounds therefore. All written determinations shall give notice of the right to appeal. The notice of determination shall be sent to the requesting party (i.e. the disabled individual or his/her representative) by certified mail, return receipt requested or hand delivery, receipt signed by the recipient. If reasonably necessary to reach a determination on the request for reasonable accommodation, the City Manager, or his/her designee, may, prior to the end of said 45 calendar day period, request additional information from the requesting party, specifying in sufficient detail what information is required. The requesting party shall have 15 calendar days after the date of the request for additional information to provide the requested information. In the event a request for additional information is made, the 45 calendar day period to issue a written determination shall no longer be applicable, and the City Manager, or his/her designee, shall issue a written determination within 30 calendar days after receipt of the additional information. If the requesting party fails to provide the requested additional information within said 15 calendar day period, the City Manager, or his/her designee, shall issue a written notice advising that the requesting party had failed to timely submit the additional information and therefore the request for reasonable accommodation shall be deemed abandoned and/or withdrawn and no further action by the City with regard to said reasonable accommodation request shall be required. [Amd. Ord. 34-10 10/19/10] (Ord. No. 03-17, § 2, 1-24-17)

- (6) **Appeal.** Within 30 calendar days after the City Manager's, or his/her designee's, determination on a reasonable accommodation request has been rendered and transmitted to the requesting party, which may be accomplished via hand delivery with signed confirmation of delivery, email with confirmation of delivery, certified mail, or overnight courier service with signature confirmation, the applicant may appeal the decision. All appeals shall contain a statement containing sufficient detail of the grounds providing the basis for the appeal. Appeals shall be filed with the City Manager and shall be to the Special Magistrate who shall, after public notice and a public hearing, render a determination as soon as reasonably practicable within 60 calendar days after the date on which the appeal was filed. An appeal from a decision of the Special Magistrate shall be handled exclusively in the Fifteenth Judicial Circuit Court in and for Palm Beach County, Florida, and such appeal shall be taken by filing a petition for writ of certiorari within 30 days from the date of filing of the written order with the City Clerk or designee. (Ord. No. 03-17, § 2, 1-24-17; Ord. No. 25-17, § 3, 7-18-17)
- (7) **Stay of enforcement.** While an application for reasonable accommodation, or appeal of a determination of same, is pending before the City, the City will not enforce the subject zoning ordinance, rules, policies, and procedures against the Applicant.
- (8) **Request form for reasonable accommodation.** (Ord. No. 03-17, § 2, 1-24-17)
- (a) **Contents of reasonable accommodation request form.** (Ord. No. 03-17, § 2, 1-24-17)
1. Name and contact information of the Applicant; [Amd. Ord. 04-12 2/21/12] (Ord. No. 03-17, § 2, 1-24-17)
  2. Information regarding property at which reasonable accommodation is requested, including the address and legal description of such location as well as ownership of the subject property; [Amd. Ord. 04-12 2/21/12] (Ord. No. 03-17, § 2, 1-24-17)
  3. Describe the accommodation and the specific regulation(s) and/or procedure(s) from which accommodation is sought; [Amd. Ord. 04-12 2/21/12]; [Amd. Ord. 05-10 1/19/10]
  4. Reasons the accommodation may be necessary for the Applicant or the individuals with disabilities seeking the specific accommodation, and if relating to housing, why the

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requested reasonable accommodation is necessary to use and enjoy the housing; [Amd. Ord. 04-12 2/21/12]; [Amd. Ord. 05-10 1/19/10]

5. Describe qualifying disability or handicap,;
  6. Other relevant information pertaining to the disability or property that may be needed by the City in order for it to be able to evaluate the request for reasonable accommodation; [Amd. Ord. 04-12 2/21/12]
  7. All certified recovery residences must provide proof of satisfactory, fire, safety, and health inspections as required by Section 397.487, Fla. Stats., as amended from time to time; (Ord. No. 03-17, § 2, 1-24-17)
  8. Signature of applicant; [Amd. Ord. 04-12 2/21/12] (Ord. No. 03-17, § 2, 1-24-17)
  9. If on-site supervisor or manager, provide the name and contact information (phone and email) for each; (Ord. No. 03-17, § 2, 1-24-17)
  10. Date of application; (Ord. No. 03-17, § 2, 1-24-17)
  11. Disclosure of ownership interests of property; (Ord. No. 03-17, § 2, 1-24-17)
  12. Owner's consent for application. (Ord. No. 03-17, § 2, 1-24-17)
- (b) **Reasonable accommodation.** An applicant who seeks a reasonable accommodation to house more than ten unrelated individuals in a community residence shall also complete and submit the form the City requires of all applicants to establish a community residence. (Ord. No. 25-17, § 4, 7-18-17)
- (9) **Expiration of approvals.** Approvals of requests for reasonable accommodation shall expire within 180 days if not implemented. [Amd. Ord. 04-12 2/21/12]
- (10) **Recertification.** All reasonable accommodation requests approved by the City Manager or his/her designee and implemented by the Applicant pursuant to this Section, 2.4.7(G), "Requests for Accommodation", are valid for no more than one year and shall require annual recertification each year on or before April 1st. Failure to recertify annually shall result in the revocation of the approved reasonable accommodation. Recertification requests shall follow the same requirements as Section 2.4.7(G), "Requests for Accommodation", and review of recertification requests shall follow the same procedures as outlined in Subsection 2.4.7(G)(5), "Notice of Proposed Decision", with the same appellate opportunities afforded to the applicant as provided under Subsection 2.4.7(G)(6), "Appeal" except the recertification notice will be sent annually by regular mail or hand delivered. (Ord. No. 03-17, § 3, 1-24-17)
- (a) To be recertified, a community residence for which a reasonable accommodation was granted to locate in Delray Beach must provide verifiable evidence that it is currently licensed or certified by the State of Florida to operate at its present location. (Ord. No. 25-17, § 5, 7-18-17)
- (b) A community residence for which a reasonable accommodation was granted to locate in Delray Beach that is not currently licensed or certified by the State of Florida to operate at its present location shall obtain licensure, certification or recertification from the designated state entity before the April 1 reasonable accommodation recertification deadline. Failure to obtain state certification or a required state license, or failure to maintain state certification or a required state license, shall result in revocation of the reasonable accommodation and cessation of operations within 60 days of termination of the license or certification. (Ord. No. 25-17, § 5, 7-18-17)
- (11) **Severability.** If any part, Section, Subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Section 2.4.7(G), "Requests for Accommodation", is declared unconstitutional by the

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final and valid judgment or decree of any court of competent jurisdiction, this declaration of unconstitutionality or invalidity shall not affect any other part, Section, Subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Section 2.4.7(G), "Requests for Accommodation". (Ord. No. 03-17, § 4, 1-24-17)

### **Sec. 4.3.3. Special requirements for specific uses.**

By nature of characteristics unique to the following uses, such use may be established only in compliance with these special requirements. These requirements are in addition to those established elsewhere in these Regulations. Description of each use in this Section shall be of its common meaning or as pursuant to the Definitions Section of these Regulations.

- (A) **Self-service storage facilities (SSSF).** [Amd. Ord. 52-97 1/6/98]
- (1) **Lot area.** The minimum lot area is two acres, and the maximum lot area is five acres. [Amd. Ord. 52-97 1/6/98]
  - (2) **Facilities and requirements.** [Amd. Ord. 52-97 1/6/98]
    - (a) Any SSSF which has outdoor bay type access to storage units must be designed in such a way to create a compound like structure with a defined masonry perimeter. In addition, the facility should be designed in such a way to minimize or eliminate sight lines of any bay doors, or outdoor storage of boats and vehicles, from the adjacent rights-of-way. [Amd. Ord. 52-97 1/6/98]
    - (b) No building shall exceed two stories or 30 feet in height. [Amd. Ord. 52-97 1/6/98] (Ord. No. 15-16, § 2, 9-20-16)
    - (c) Parking shall be provided as follows: [Amd. Ord. 01-09 1/20/09]; [Amd. Ord. 52-97 1/6/98] (Ord. No. 15-16, § 2, 9-20-16)
      1. One space per 5,000 square feet of gross floor area for single story SSSF buildings. This requirement may be modified during the site plan approval process if a sufficient number of storage units have direct vehicle access, and internal driveways are designed to allow customers to safely park in front of their storage unit without impeding internal circulation. (Ord. No. 15-16, § 2, 9-20-16)
      2. One parking space per 100 units of multi-story SSSF buildings. (Ord. No. 15-16, § 2, 9-20-16)
      3. A minimum of three and one-half spaces/1,000 square feet of accessory office. (Ord. No. 15-16, § 2, 9-20-16)
      4. A minimum of two spaces for an onsite manager's residence, if applicable. (Ord. No. 15-16, § 2, 9-20-16)
      5. A minimum of three loading spaces for each multi-story SSSF building. Each loading space must be a minimum of 12 feet by 25 feet with sufficient driveway access to accommodate vehicular maneuvering. (Ord. No. 15-16, § 2, 9-20-16)
  - (3) **Limitation of uses.** [Amd. Ord. 52-97 1/6/98]
    - (a) Activities other than the rental or lease of storage units are not allowed to be conducted on the premises of the SSSF, unless specifically permitted by the City Commission. [Amd. Ord. 52-97 1/6/98] (Ord. No. 15-16, § 2, 9-20-16)

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- (b) No business or activity other than dead storage shall be conducted from any storage unit in the facility. Examples of prohibited uses include, but are not limited to the following: the servicing, repair and/or restoration of automobiles, boats, recreational vehicles, lawnmowers and the like; garage sales; moving and storage companies; cabinet making and wood working (whether personal or professional); personal hobbies and arts and crafts; and any other activity unless specifically permitted through the conditional use process. [Amd. Ord. 52-97 1/6/98]
  - (c) There shall be no electrical power provided to, or accessible from, any individual storage units. This includes the provision of lighting fixtures to the interior of a storage unit, unless specifically addressed in the site plan approval. The use of portable generators is also prohibited. [Amd. Ord. 52-97 1/6/98] (Ord. No. 15-16, § 2, 9-20-16)
  - (d) The use or storage of any hazardous materials is expressly prohibited. [Amd. Ord. 52-97 1/6/98]
  - (e) The terms and conditions of this section shall be clearly expressed in all storage rental or leasing contracts, as well as conspicuously displayed on a sign no smaller than one foot by two feet in the leasing office. [Amd. Ord. 52-97 1/6/98] (Ord. No. 15-16, § 2, 9-20-16)
  - (f) Within the Light Industrial (LI) zoning district, facilities may not be located within a 750-foot radius of another approved SSSF. [Amd. Ord. 52-97 1/6/98] (Ord. No. 15-16, § 2, 9-20-16)
- (4) **On-site manager required.** All SSSF are required to have, and continuously maintain, an on-site manager during office business hours, and may provide on-site living quarters for such. [Amd. Ord. 52-97 1/6/98] (Ord. No. 15-16, § 2, 9-20-16)
  - (5) **Hours of operation.** SSSF customers may not access individual storage units before 5:00 a.m. or any later than 10:00 p.m. Hours of operation may be further restricted when it is deemed that morning and evening traffic into and out of the facility may negatively impact the character of an adjacent residential area. In no circumstance shall customers of any SSSF have 24 hour access to their storage unit(s). [Amd. Ord. 52-97 1/6/98] (Ord. No. 15-16, § 2, 9-20-16)
  - (6) **Landscape requirements.** In addition to all applicable landscape requirements and other special provisions pursuant to the individual zone district, a minimum ten-foot landscape buffer shall be required for the entirety of the property. [Amd. Ord. 52-97 1/6/98] (Ord. No. 15-16, § 2, 9-20-16)
  - (7) **Outdoor storage of vehicles and boats.** The outdoor storage of boats and vehicles is permitted . In all cases, this use is permitted only as accessory to the main use, must be located in the interior of the masonry perimeter, and may not be visible from any rights-of-way. [Amd. Ord. 52-97 1/6/98] (Ord. No. 15-16, § 2, 9-20-16)
  - (8) **Truck rental.** Truck rental may be conducted as an ancillary use, if an appropriate amount of additional parking spaces are provided. Storage of rental trucks must be located in the interior of the masonry perimeter, and may not be visible from any rights-of-way. [Amd. Ord. 52-97 1/6/98] (Ord. No. 15-16, § 2, 9-20-16)
- (AA) **Adult entertainment establishments.** In addition to the requirements of the underlying zoning district, other applicable general regulations, County licensing requirements, parking regulations and Section 113.20 of the Code of Ordinances of the City of Delray Beach, the following requirements shall apply to adult entertainment establishments: [Amd. Ord. 30-98 9/08/98]
    - (1) No adult entertainment establishment shall be located on properties with frontage on an arterial road or located east of the CSX railroad track. [Amd. Ord. 30-98 9/08/98]
    - (2) No adult entertainment establishment shall be located closer than 1,000 feet from any house of worship, school, residential zoning district, community facilities zoning district (CF, OS, OSR, CD)

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where the use is or is to be regularly frequented by the general public (i.e. community center, parks, courthouse, child care facilities, offices, etc.) measured from lot line to lot line boundary along a straight airline route, except when the property containing the adult entertainment establishment is separated from the above by the I-95 right-of-way. [Amd. Ord. 30-98 9/08/98]

- (3) No adult entertainment establishment shall be located within 200 feet of an alcoholic beverage establishment, measured from lot line to lot line boundary along a straight airline route except if the establishment permitting nudity or partial nudity is separated from an alcoholic beverage establishment by a Railroad Corridor or an Arterial Roadway as the width of the Railroad Corridor and/or Arterial Roadway shall be deemed a sufficient separation. [Amd. Ord 43-03 12/2/03]; [Amd. Ord. 30-98 9/08/98]; [Amd. Ord. 55-90 11/13/90]
- (4) Signage. Only one sign per adult entertainment establishment is permitted, and such sign shall not extend above 12 feet above ground level or have an area of greater than 36 square feet. No neon material shall be permitted on the sign. All other restrictions of the sign code shall apply herewith. [Amd. Ord. 55-90 11/13/90]
- (5) No adult entertainment establishment shall be located within an historic district, on an historic site, or on properties listed on the Local or National Register of Historic Places, unless the historic district, site or property was previously used for an adult entertainment type use. [Amd. Ord. 30-98 9/08/98]
- (6) The minimum floor area per room or partitioned area within an adult entertainment establishment must be 2,000 square feet exclusive of kitchen, restrooms, storage areas, and other non-public/customer area of the establishment. [Amd. Ord. 30-98 9/08/98]
- (7) Performers/entertainers or employees in the state of nudity or partial nudity shall not approach within four feet of patrons, customers, or other employees or other performers/entertainers, and must perform/entertain from a stage encompassing an area of at least 100 square feet. [Amd. Ord. 30-98 9/08/98]

(AAA)**Adult gaming centers—Purpose.** It is the intent of this section to regulate adult gaming centers that mimic the look and feel of gambling venues but are operated in accordance with Florida State Statute Chapter 849 (Gambling). Regulation of these venues ensures that they are permitted as conditional uses in the appropriate compatible designation within the City and that appropriate police powers are established to ensure reduction of any secondary effects. This section does not purport to regulate adult arcades which are addressed in Section 4.3.3(AA) of the City's Land Development Regulations entitled "Adult Entertainment Establishments" and Section 113.20 of the City's Code of Ordinances, nor Amusement Game Facilities as defined herein. [Amd. Ord. 58-04 10/19/04]

- (1) **Development standards for adult gaming centers.** [Amd. Ord. 58-04 10/19/04]
  - (a) No Adult Gaming Center shall be located within 1,000 feet of or in the same block as, whichever distance is greater, an existing adult gaming center, measured from lot line to lot line in a straight line. [Amd. Ord. 58-04 10/19/04]
  - (b) Location: No adult gaming center shall be located within an historic district, on an historic site, on properties listed on the Local or National Register of Historic Places or in any Redevelopment Area. [Amd. Ord. 58-04 10/19/04]
  - (c) Adult gaming center requirements: [Amd. Ord. 58-04 10/19/04]
    1. An attendant must be provided on the premises during all hours of operation. [Amd. Ord. 58-04 10/19/04]
    2. The hours of operation shall be limited to 9:00 a.m. to 11:00 p.m., seven days a week. [Amd. Ord. 58-04 10/19/04]

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3. No one under 18 years of age shall be allowed in the Adult Gaming Center. [Amd. Ord. 58-04 10/19/04]
  4. The consumption and/or possession of alcohol shall be prohibited on the premises. [Amd. Ord. 58-04 10/19/04]
  5. The license for each machine shall be attached thereto. [Amd. Ord. 58-04 10/19/04]
  6. The use of gift certificates, gift cards, credit cards or other cash substitutes shall be prohibited. [Amd. Ord. 58-04 10/19/04]
  7. Prizes shall be limited to \$.75 retail value per game played. [Amd. Ord. 58-04 10/19/04]
  8. Any machine on the premises of the enterprise or business shall not violate the State's laws against slot machines and shall be in full compliance with Section 849.16, Florida Statutes. [Amd. Ord. 58-04 10/19/04]
  9. The enterprise or business shall permit unlimited access to law/code enforcement officials to enter the premises and inspect any machine at any time to ensure that the provisions of this Ordinance are in compliance. [Amd. Ord. 58-04 10/19/04]
- (2) **Conditional use criteria.** [Amd. Ord. 58-04 10/19/04]
- (a) **Application.** No person shall operate or conduct an adult gaming center for use by the general public in the City for the reward of prizes without first applying for a conditional use and stating in the application, at a minimum, the following: [Amd. Ord. 58-04 10/19/04]
1. The name under which the enterprise or business is to be conducted; [Amd. Ord. 58-04 10/19/04]
  2. The location at which the enterprise or business is to be carried on; [Amd. Ord. 58-04 10/19/04]
  3. The name, address and principal occupation of every person with an interest in the enterprise or business. [Amd. Ord. 58-04 10/19/04]
  4. The number of machines to be exhibited; [Amd. Ord. 58-04 10/19/04]
  5. The manufacturer, serial numbers, name of each machine, name of actual owner of each machine with address and phone numbers; and, [Amd. Ord. 58-04 10/19/04]
  6. Whether the applicant has ever been engaged in operating a gaming center, of whatsoever type or nature, and when, where and how long in each place within five years preceding the date of application. [Amd. Ord. 58-04 10/19/04]
  7. A conditional use shall not be approved if a person with an interest in the adult gaming center, or an employee of the adult gaming center, has been convicted of a violation of a Federal or State statute or any local ordinance pertaining to gambling or any other crime involving moral turpitude. [Amd. Ord. 58-04 10/19/04]
  8. The applicant shall be 18 years of age or more and provide proof thereof. [Amd. Ord. 58-04 10/19/04]

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- (b) **Inspection.** As a prerequisite to the continuation of the granting of a conditional use within six months and periodically thereafter during the operation of the adult gaming center, the Chief Building Official, or designee, the City Fire Inspector or designee and the Delray Beach Police Department shall have the right to inspect the premises certifying that the adult gaming establishment is operating in accordance with the requirements of law and this ordinance. [Amd. Ord. 58-04 10/19/04]
- (c) **Registration.** Upon approval of a conditional use, registration for each coin operated amusement gaming device, however operated, shall be required. For each machine registered, a numbered metal tag or plastic decal shall be issued to the applicant for each machine so covered. Application for machine registration stickers must disclose the location where the machine is to be operated, the manufacturer of the machine, the manufacturer's serial number, and the software version, if any. Registration stickers are not transferable from person to person, place to place, or machine to machine. No machine will be eligible for a registration sticker if its operation involves any material elements of chance, unless: [Amd. Ord. 58-04 10/19/04]
1. The applicant submits with the application, satisfactory proof that the applicant has registered with the United States Department of Justice pursuant to 15 United States Code 1171, and [Amd. Ord. 58-04 10/19/04]
  2. The applicant submits with the application, the records required under Federal law to be maintained by those who register under 15 United States Code 1171, and certifies the machine bears the permanent marking required by Federal law. [Amd. Ord. 58-04 10/19/04]
  3. The applicant shall keep the registered machines, the records of acquisition, location and disposition required by Federal law, and records of prize awards open to law/code enforcement inspection at any time. [Amd. Ord. 58-04 10/19/04]
- (3) **Peace disturbances; gambling; intoxicated persons; minors.** No licensee or owner of any adult gaming center, or any servant, agent or employee of such a licensee or owner, shall permit upon the premises housing a mechanical amusement devise any of the following: [Amd. Ord. 58-04 10/19/04]
- (a) Disorderly persons; [Amd. Ord. 58-04 10/19/04]
  - (b) Gambling, or the use, possession or presence of gambling paraphernalia; [Amd. Ord. 58-04 10/19/04]
  - (c) Intoxicated persons to loiter on the premises; [Amd. Ord. 58-04 10/19/04]
  - (d) Loud noise or music to emerge from the licensed premises, which noise or music is disturbing to the surrounding area; and [Amd. Ord. 58-04 10/19/04]
  - (e) Any licensee or owner, or any servant, agent or employee thereof, shall be presumptively deemed to have permitted the conduct enumerated in this Section if it occurs on the premises housing an adult gaming center. [Amd. Ord. 58-04 10/19/04]
- (4) **Penalty.** Section 10.99, "General Penalty" of the Code of Ordinances of the City of Delray Beach shall apply, but shall not be the exclusive penalty for violations of this section, which may include but not be limited to a finding that the conditional use is null and void if any adult gaming center is found to be in violation of Chapter 849, Fla. Stat. or this ordinance or conditions of approval. [Amd. Ord. 58-04 10/19/04]

(AAAA) **Simulated gambling devices.** [New Section Added by Ord. 48-11 1/3/12]

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- (1) **Purpose.** It is the intent of this section to prohibit the use of simulated gambling devices, including any related activity or behavior which can be reasonably construed to be the use of simulated gambling devices.
  - (2) **Prohibition of simulated gambling devices.** It shall be unlawful for any person to manage, supervise, maintain, provide, produce or use one or multiple simulated gambling devices. Each individual act to manage, supervise, maintain, provide, produce, or use a simulated gambling device constitutes a separate violation of this section.
  - (3) **Exemptions.**
    - (a) This section does not prohibit the personal, recreational, non-commercial ownership, play, operation or use of a device which could be construed to be a simulated gambling device, provided such ownership, play, operation or use is not otherwise prohibited by Florida law and provided such ownership, play, operation or use does not constitute a lottery under Article X, Section 7 of the Florida Constitution.
    - (b) This section does not prohibit the ownership, play, operation, or use of any device expressly permitted by the Florida Statutes and not otherwise prohibited by the Florida Constitution, except that devices permitted by Article X, Section 23 of the Florida Constitution and Chapter 551, Florida Statutes, in Broward and Miami-Dade County only are not permitted by this section.
    - (c) This section does not prohibit Adult Gaming Centers, which are regulated by LDR Section 4.3.3(AAA).
  - (4) **Conflict with state law.** Nothing in this section is intended to conflict with the provisions of the Florida Constitution or Chapter 849, Florida Statutes, concerning gambling. In the event of a conflict between this section and either the Florida Constitution or Chapter 849, Florida Statutes, then the provisions of the Florida Constitution or Chapter 849, Florida Statutes, as applicable, control.
  - (5) **Penalty.** Any person who violates this section is subject to the provisions of Section 10.99, "General Penalty", of the Code of Ordinances of the City of Delray Beach. Each simulated gambling device, possession or use thereof constitutes an individual offense for purposes of Section 10.99.
- (B) **Abused spouse residence.**
- (1) **Occupancy.** Occupancy of sleeping rooms shall be as follows:
    - (a) One abused spouse and all minor or dependent children of that spouse may occupy a sleeping room;
    - (b) A maximum of four abused spouses with no minor or dependent children may occupy a sleeping room;
    - (c) Should conditions warrant unrelated individuals to share quarters, a maximum of four individuals (abused spouses and minor or dependent children) may occupy a sleeping room.
  - (2) **Appearance.** Abused spouse residences in residential zoning districts shall have exterior architectural elevations which are residential in character, shall maintain appropriate landscaping, and shall have no signs or external devices to detract from the residential character of the structure.
  - (3) **Inspections and licenses.**

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- (a) **Fire inspections.** Issuance of an occupational license shall be preceded by an annual fire safety inspection; issuance of an occupational license shall be contingent upon compliance with the recommendations of the City Fire Marshall and Chief Building Official.
  - (b) **State license.** Should a State license become mandatory for abused spouse residences, a valid State license shall be required for renewal of the City occupational license.
- (C) **Automotive rental facility.** (Ord. No. 24-17 , § 2, 11-7-17)
- (1) **Purpose.** It is the intent of this section to regulate commercial establishments that rent vehicles and that are located outside of the Automotive Commercial (AC) zoning district by establishing the following uses: (Ord. No. 24-17 , § 2, 11-7-17)
    - (a) Automotive rental facility, accessory. (Ord. No. 24-17 , § 2, 11-7-17)
    - (b) Automotive rental facility, neighborhood. (Ord. No. 24-17 , § 2, 11-7-17)
  - (2) **General rules and regulations.** (Ord. No. 24-17 , § 2, 11-7-17)
    - (a) These uses are restricted to vehicle rentals only. Vehicle sales are not allowed. (Ord. No. 24-17 , § 2, 11-7-17)
    - (b) Operations related to these uses including, but not limited to, vehicle returns, vehicle maintenance, and customer queuing, shall not impact the off-street parking lot circulation. (Ord. No. 24-17 , § 2, 11-7-17)
    - (c) The square footage of the lease space for Automotive Rental Facility, Neighborhood shall be limited to five percent or less of the gross square footage of the shopping center, inclusive of outparcels. (Ord. No. 24-17 , § 2, 11-7-17)
    - (d) Approval of a Class III Site Plan shall be required for the following: (Ord. No. 24-17 , § 2, 11-7-17)
      - i. Modification to a site plan requesting a change of the use of an existing building or portion of a building to Automotive Rental Facility, Neighborhood. (Ord. No. 24-17 , § 2, 11-7-17)
      - ii. Modification to a site plan requesting to add the Automotive Rental Facility, Accessory use to an existing business. (Ord. No. 24-17 , § 2, 11-7-17)
    - (e) Vehicle storage is subject to the following rules: (Ord. No. 24-17 , § 2, 11-7-17)
      - i. Vehicle storage is permitted in the off-street parking spaces so long as the off-street parking spaces are not located along the main drive aisles, do not utilize the first two rows of parking spaces typically utilized by retail customers, and are not visible from any adjoining right-of-way and properties. (Ord. No. 24-17 , § 2, 11-7-17)
      - ii. Vehicle storage is limited to no more than 10 percent of the off-street parking spaces, and in no event shall exceed 20 off-street parking spaces for each establishment. (Ord. No. 24-17 , § 2, 11-7-17)
    - (f) Vehicle maintenance shall be ancillary to the vehicle rental facility. At no time shall the facility serve as a commercial car wash. In addition, the facility shall be subject to the following standards: (Ord. No. 24-17 , § 2, 11-7-17)
      - i. Only hand-washing and vacuuming shall be permitted. The washing and vacuuming is permitted only in a designated washing and vacuuming area. (Ord. No. 24-17 , § 2, 11-7-17)

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- ii. If the hand-washing and vacuuming area is exterior to the principal building, this area shall be limited to one wash bay which shall be setback a minimum of 25 feet from any residentially zoned property, and shall be designed to incorporate a hard roof covering that is compatible with the principal use or with the structures within the shopping center. The hand-washing and vacuuming area shall be screened by either a wall, opaque fence or hedge and shall not be visible from any adjoining right-of-way or adjacent properties. The hand-washing and vacuuming area shall not have outdoor speakers or utilize a public address system. (Ord. No. 24-17 , § 2, 11-7-17)
  - iii. If the hand-washing and vacuuming area is interior to the principal building, this area shall be limited to one wash bay, which shall be fully enclosed. The access overhead bay door to this area shall remain closed during operation of all maintenance activities. (Ord. No. 24-17 , § 2, 11-7-17)
  - iv. Run-off from the washing operations shall be collected and contained on site. (Ord. No. 24-17 , § 2, 11-7-17)
  - v. All other vehicle services, including repair, maintenance, oil change and fueling shall not be permitted onsite. As a condition of site plan approval, the applicant shall provide documentation and an affidavit describing the location where these services will occur. (Ord. No. 24-17 , § 2, 11-7-17)

(CC) **CBD Oil Establishments.** (Ord. No. 58-20, § 2, 12-1-20)

- (1) **Purpose and intent.** The purpose of this section is to regulate the location and operation of establishments that sell and distribute cannabidiol products ("CBD oil establishments") to protect: the unique character and aesthetic of the City of Delray Beach's family-friendly, historic downtown and neighborhoods and renowned beach resort community; property interests and rights; the public health, safety, and welfare; and the administration of local laws. (Ord. No. 58-20, § 2, 12-1-20)
- (2) **Hours of Operation.** CBD oil establishments are limited to operating between 8 a.m. to 10 p.m. (Ord. No. 58-20, § 2, 12-1-20)
- (3) **Accessory Use Regulations.** (Ord. No. 58-20, § 2, 12-1-20)
  - a) CBD oil sales shall be permitted as an accessory use within Medical, Medical Clinics and Pharmacies pursuant to all other provisions of the LDRs, without regard to the distance provisions of Section 4.3.3.(CC)(4) of the LDRs. (Ord. No. 58-20, § 2, 12-1-20)
  - b) Where a CBD oil establishment would otherwise be a permitted principal use but for the prohibition set forth by Section 4.3.3(CC)(4), CBD oil establishments shall be permitted as an accessory use pursuant to all other provisions of the LDRs. For example, CBD oil establishments, even as an accessory use, shall not occupy "Required Retail Frontage" within any of the Central Business District Sub-districts. (Ord. No. 58-20, § 2, 12-1-20)
  - c) When permitted as an accessory use, CBD oil establishments shall be limited as follows: (Ord. No. 58-20, § 2, 12-1-20)
    - i) 20% or less of gross floor area of the overall tenant space of the principal use. (Ord. No. 58-20, § 2, 12-1-20)
    - ii) No exterior signage specifically for CBD oil establishments or related activities. (Ord. No. 58-20, § 2, 12-1-20)

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- (4) **Prohibition by Frequency.** CBD oil establishments shall be located no more than one per block or within 750 feet of another such use, or from a bar, as measured from lot line to lot line in a straight line. (Ord. No. 58-20, § 2, 12-1-20)
- (5) **Prohibition by Proximity.** CBD oil establishments, whether principal or accessory, shall not be located within 300 feet of an established residential zone, school, public park, day care facilities, or houses of worship. (Ord. No. 58-20, § 2, 12-1-20)
- a) With respect to schools and parks, the 300 feet distance shall be measured from the nearest point of the property of the place of business, location, or establishment to the nearest point of the school property in use as a part of the school facilities. (Ord. No. 58-20, § 2, 12-1-20)
  - b) With respect to houses of worship and day care facilities, the 300 feet distance shall be measured from the nearest point of the property of place of business, location, or establishment to the nearest point of the property of the house of worship building or buildings. (Ord. No. 58-20, § 2, 12-1-20)
  - c) With respect to established residential zones, the 300 feet distance shall be measured from the nearest point of the building of place of business, location, or establishment to the nearest point of the residential zoning district boundary. (Ord. No. 58-20, § 2, 12-1-20)
  - d) The 300 feet distance shall be measured in a straight line. (Ord. No. 58-20, § 2, 12-1-20)
- (D) **Urban agriculture.** (Ord. No. 07-17, § 2, 5-16-17)
- (1) **Purpose and intent.** The purpose of this section is to promote local production of food for consumption as well as non-food ornamental crops, such as flowers, cactus and shrubs and to promote the health, environmental, and economic benefits of having such uses in the City. (Ord. No. 07-17, § 2, 5-16-17)
    - (a) Urban Agriculture includes commercial rooftop gardens, productive green walls, indoor farm facilities, urban farms, and other innovative food production methods in an urban area, excluding Community Gardens and School Gardens. (Ord. No. 07-17, § 2, 5-16-17)
    - (b) Community Gardens and School Gardens are regulated by the City under the Community Gardens Program that has been adopted by the City of Delray Beach via resolution and, as such, are not regulated by this Section. (Ord. No. 07-17, § 2, 5-16-17)
  - (2) **Appearance.** (Ord. No. 07-17, § 2, 5-16-17)
    - (a) Urban Agriculture shall contribute to the appearance and aesthetics of the area, shall be compatible with surrounding land uses, and shall not negatively impact the surrounding area. (Ord. No. 07-17, § 2, 5-16-17)
    - (b) The owner or lessee of the property on which an Urban Agriculture site is located shall be responsible for maintaining the property so that it does not become overgrown with weeds, infested by invasive exotic plants or vermin, or a become a source of erosion due to storm water runoff. (Ord. No. 07-17, § 2, 5-16-17)
    - (c) Failure to maintain an outdoor Urban Agriculture site shall be a violation of City's Code of Ordinances Sections 100.01, 100.05, and 100.07, as appropriate. If the site does not come into compliance with the Code of Ordinances within 180 days after the issuance of a citation, the site shall be deemed abandoned. The owner of an abandoned site will be responsible for restoring the site in accordance with the City's Landscape Regulations in LDR Section 4.6.16. (Ord. No. 07-17, § 2, 5-16-17)
  - (3) **General rules and regulations.** (Ord. No. 07-17, § 2, 5-16-17)

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- (a) All forms of Animal Husbandry are prohibited. (Ord. No. 07-17, § 2, 5-16-17)
  - (b) The following plants species are prohibited: (Ord. No. 07-17, § 2, 5-16-17)
    - (i) Invasive species identified on the Florida Exotic Pest Plant Council's list of exotic species, as amended, such as Old World Climbing Ferns and Air Potato vines that are, and as determined by the Senior Landscape Planner. (Ord. No. 07-17, § 2, 5-16-17)
    - (ii) Noxious weeds as defined by Rule 5B-57.007, Florida Administrative Code. (Ord. No. 07-17, § 2, 5-16-17)
  - (c) Honeybee colonies must be registered with the Florida Department of Agriculture and Consumer Services in accordance with Rule 5B-54.010, Florida Administrative Code. (Ord. No. 07-17, § 2, 5-16-17)
  - (d) The site shall be designed and maintained so that the water used in the production of agricultural products, compost, and fertilizer will not drain onto the adjacent property. (Ord. No. 07-17, § 2, 5-16-17)
  - (e) Outdoor Urban Agriculture activities shall take place after sunrise or before sunset. Hours of operation will not be limited for indoor Urban Agriculture activities. (Ord. No. 07-17, § 2, 5-16-17)
  - (f) The sale of produce, flowers, and plants produced by the site shall occur at the site only and shall not take place before 7:00 a.m. or after 9:00 p.m. (Ord. No. 07-17, § 2, 5-16-17)
  - (g) Urban Farms must comply with the Americans with Disabilities Act design standards for accessible routes if the site allows customers to pick their own produce or other products. (Ord. No. 07-17, § 2, 5-16-17)
- (4) **Site standards.** (Ord. No. 07-17, § 2, 5-16-17)
- (a) A site plan is required for all Urban Agriculture. Site plans shall be subject to review by the Site Plan Review and Appearance Board or the Historic Preservation Board in accordance with LDR Section 2.4.5(F) "Site and Development and Master Development Plans) and LDR Section 2.4.5 (G) "Modification to Site and Development Plans". The approving body shall make a finding that the site is compatible with respect to size and scale of the development in which they are located. All outdoor plantings for crop production shall be setback a minimum of 15 feet from the front property line and five feet from the side interior or rear property lines. Corner lots shall maintain a ten-foot side street setback. All plantings shall comply with the visibility at intersection requirements pursuant to LDR Section 4.6.14. (Ord. No. 07-17, § 2, 5-16-17)
  - (b) A Site Management Plan must be submitted with the Site Plan application. The Site Management Plan shall include: (Ord. No. 07-17, § 2, 5-16-17)
    - (i) A narrative describing the types of crop(s) to be grown, the hours of operation, and a detailed maintenance plan. (Ord. No. 07-17, § 2, 5-16-17)
    - (ii) A list of chemicals, pesticides, fertilizers or any combination of same to be used as well as the frequency of use. (Ord. No. 07-17, § 2, 5-16-17)
    - (iii) Certification that the site is in compliance with LDR Section 4.5.5(B) "Wellfield Protection Ordinance". (Ord. No. 07-17, § 2, 5-16-17)

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- (iv) Description of the on-site water source and a water management plan addressing containment of run off onto adjoining properties, waterways or rights-of-way. (Ord. No. 07-17, § 2, 5-16-17)
  - (v) A description of proposed rain-capture systems including size, location and method of operation as well as how water stagnation will be prevented. (Ord. No. 07-17, § 2, 5-16-17)
  - (vi) Photograph of the proposed Urban Agriculture site and existing structures. (Ord. No. 07-17, § 2, 5-16-17)
  - (vii) Description of composting activities including, location, size and means of containment. (Ord. No. 07-17, § 2, 5-16-17)
  - (viii) Complete description of any aspects of the operation that may generate noise or odor on site and that may impact adjacent property. (Ord. No. 07-17, § 2, 5-16-17)
  - (ix) The Site Management Plan shall provide number of vehicles associated with the use and identification of permanent parking spaces on site, driveway, and drive aisle locations and the method of screening parking areas from adjacent properties and rights-of-way. (Ord. No. 07-17, § 2, 5-16-17)
- (c) The Urban Agriculture site shall be served by a water supply sufficient to support the cultivation practices used on the site. The use of City water services for irrigation may be permitted in accordance with Chapter 52 of the City's Code of Ordinances upon written approval from the Director of the Environmental Services Department with the concurrence of the City Manager. The use of rain-capture systems is encouraged on the site. (Ord. No. 07-17, § 2, 5-16-17)
  - (d) Lighting used for the Urban Agriculture site shall be limited to that required for operational and safety purposes. Lighting shall comply with LDR Section 4.6.8. (Ord. No. 07-17, § 2, 5-16-17)
  - (e) A perimeter fence or hedge for a ground level outdoor Urban Agriculture site is required. The use of decorative metal, wood masonry, pickets, wrought iron, or board-type wood is encouraged. The fence or hedge shall comply with Section 4.6.5 of the Land Development Regulations. Vegetative screening is encouraged and should consist of drought-tolerant South Florida native trees and shrubs and must be located outside the perimeter fence. (Ord. No. 07-17, § 2, 5-16-17)
  - (f) For rooftop gardens, all equipment and containers shall be screened so they are not visible from the adjacent right-of-way. (Ord. No. 07-17, § 2, 5-16-17)
  - (g) The following accessory structures may be permitted on Urban Agriculture sites: tool storage sheds, greenhouses, hoop houses, cold frames, raised/accessible planting beds, compost or waste bins, farm stands, restrooms, and offices, that are not used for cultivating crops. The height of these accessory structures shall not exceed the height of the associated principal structure and in no case be greater than 20 feet. The combined total square footage for all accessory structures for an outdoor urban farm shall not exceed one-twentieth of the site. (Ord. No. 07-17, § 2, 5-16-17)
  - (h) In Historic Districts, all accessory structures associated with an Urban Agriculture use shall be located to the rear of the principal structure(s). (Ord. No. 07-17, § 2, 5-16-17)

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- (i) In Historic Districts, where an Urban Agriculture use is an accessory use to a residential use, the Urban Agriculture use shall not be located within the front setback. (Ord. No. 07-17, § 2, 5-16-17)
  - (j) Compost and organic matter to be used on the Urban Agriculture site shall be stored in appropriate containers, which must be located on the subject site and shall be setback a minimum of 25 feet from the front property line and a minimum of ten feet from all side and rear yard property lines. Compost bins shall be shielded from the adjacent right-of-way by plantings or fencing pursuant to LDR Section 4.6.5. Such containers shall be maintained to minimize odors, prevent run-off, and prevent the harborage of rodents and pests. (Ord. No. 07-17, § 2, 5-16-17)
  - (k) For Urban Farms, storage of toxic and flammable materials is regulated as follows: (Ord. No. 07-17, § 2, 5-16-17)
    - (i) Storage of toxic and flammable materials used for the operation of lawnmowers or other combustion engine-driven gardening machinery may be stored at the site and shall be kept in sealed containers in locked, ventilated structures in accordance of the National Fire Protection Association (NFPA) Code 30: "Flammable and Combustible Liquids" and the Florida Fire Prevention Code (FFPC). No other flammable materials or chemicals may be stored on site. A maximum of ten gallons of fuel is allowed to be stored at the site at any given time. (Ord. No. 07-17, § 2, 5-16-17)
    - (ii) Tires shall not be stored at the site. (Ord. No. 07-17, § 2, 5-16-17)
    - (iii) Toxic materials, such as pressure treated wood (creosote), shall not be used where they will come into contact with soils that are growing food. (Ord. No. 07-17, § 2, 5-16-17)
  - (l) Signs shall conform to the standards set forth in Section 4.6.7 of the Land Development Regulations. (Ord. No. 07-17, § 2, 5-16-17)
  - (m) Mechanical equipment used in the operation of outdoor Urban Agriculture sites that are located in districts that allow residential uses shall comply with the noise regulations in Chapter 99 of the Code of Ordinances and shall be limited to the following: (Ord. No. 07-17, § 2, 5-16-17)
    - (i) Riding/push mower designed for personal use. (Ord. No. 07-17, § 2, 5-16-17)
    - (ii) Handheld tillers or edgers that may be gas or electrically powered. (Ord. No. 07-17, § 2, 5-16-17)
    - (iii) Other handheld farming equipment that create minimal impacts related to the operation of said equipment, including noise, odors, and vibration. (Ord. No. 07-17, § 2, 5-16-17)
  - (n) Required on-site parking shall comply with the off-street parking regulations set forth in Section 4.4.13(C), Table 4.4.13(L); and Section 4.6.9(C)(7)(m) of the Land Development Regulations. (Ord. No. 07-17, § 2, 5-16-17)
  - (o) Notwithstanding the foregoing, all Urban Agriculture sites and Urban Farms shall comply with the additional requirements of the applicable zoning district. (Ord. No. 07-17, § 2, 5-16-17)

(DD) **Drug paraphernalia** (as defined by Section 893.145 Fla. Stat.): [Amd. Ord. 45-02 10/1/02]

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- (1) **General.** It shall be unlawful for any person to sell or offer for sale drug paraphernalia or to operate a business which primarily sells drug paraphernalia. [Amd. Ord. 45-02 10/1/02]
- (a) **Exemptions.** This section shall not apply to: [Amd. Ord. 45-02 10/1/02]
- (i) Any person authorized by local, State, or Federal law to manufacture, possess, or distribute such items, or [Amd. Ord. 45-02 10/1/02]
  - (ii) Any item that, in the normal lawful course of business is imported, exported, transported, or sold through the mail or by any other means, and traditionally intended for use with tobacco products, including any pipe, paper, or accessory. [Amd. Ord. 45-02 10/1/02]
- (E) **Child care facilities.** (See Subsection (T) Re: Family Day Care).
- (1) **Lot area.** The minimum lot area shall be 7,500 square feet.
  - (2) **Floor area.** Facilities shall contain a minimum floor area of 35 square feet per child, exclusive of space devoted to bathrooms, halls, kitchen, offices, and storage.
  - (3) **Outdoor area.** There shall be a minimum area of 75 square feet of outdoor play area per child. The play area shall be located on the same lot as the principal use and shall not be located in the front yard setback or adjacent to any outdoor storage area. The play area shall be surrounded by a six-foot high fence or wall.
  - (4) **Loading area.** A pickup and drop-off area for children shall be provided in a convenient area adjacent to the building and shall provide clear ingress and egress to the building.
  - (5) **Other regulations.** All child care facilities shall comply with State and County regulations.
- (F) **Adult day care facilities.** All provisions of Section 4.3.3(E) shall apply except as follows:
- (1) No outdoor play area needs to be provided.
  - (2) The minimum floor area requirements shall be based upon adults instead of children.
- (G) **Medical marijuana treatment center—Dispensing facility.** Medical Marijuana Treatment Centers (MMTC)—Dispensing Facilities as defined in Appendix A are specifically prohibited in all zoning districts in the City of Delray Beach. (Ord. No. 34-17, § 2, 9-26-17)
- (H) **Nursing homes.** [Amd. Ord. 20-08 4/15/08]
- (1) **Lot area.** The minimum lot area for such uses shall be one acre.
  - (2) **Frontage.** The minimum frontage of the parcel upon which such a use is to be located is 100 feet.
  - (3) **Locational factors.**
    - (a) Such uses shall not be located on any arterial street.
    - (b) Should the facility require ambulance service, such access shall be from a collector street and shall be provided in such a manner to minimize adverse effects on adjacent property.
    - (c) The environment created should be of a pronounced residential nature and shall be designed to minimize any adverse condition which might detract from the primary convalescent purpose of the facility.
- (HH) **Public educational facilities of the School District of Palm Beach County.** The following regulations apply. Relief from these requirements shall only be granted by the City Commission through the waiver process [Section 2.4.7(B)]. [Amd. Ord. 24-02 7/16/02]; [Amd. Ord. 79-94 10/18/94]

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- (1) **Lot area.** The minimum lot area is one acre. [Amd. Ord. 24-02 7/16/02]; [Amd. Ord. 79-94 10/18/94]  
DELETED (2) AND RENUMBERED. [Amd. Ord. 24-02 7/16/02]
  - (2) **Loading area.** A pickup and drop-off area for children shall be provided in a convenient area adjacent to the building and shall provide clear ingress and egress to the building. A minimum of 100 feet dedicated to vehicular drop-off / pick-up lane shall be provided. The stacking area is measured from the loading area and shall not block drive-aisles or parking areas. A greater distance may be required by the approving body based on the capacity of the facility. A reduced stacking distance may be approved by the Board based on a traffic impact statement. Pathways that cross vehicular use areas shall be defined by special paving, brick, striping or other method acceptable to the Board. [Amd. Ord. 24-02 7/16/02]; [Amd. Ord. 79-94 10/18/94]
  - (3) **Landscape requirement.** When abutting residentially zoned properties, excluding separators such as streets, canals, and railroads, a perimeter setback area of 15 feet must be provided. The perimeter landscape area shall be a landscaped area. No paving is allowed except for driveways and walkways leading to structures on the premises provided they are perpendicular to the property line. This perimeter setback area may be decreased to ten feet when an outdoor recreation area is provided and abuts residentially zoned property. [Amd. Ord. 24-02 7/16/02]
  - (4) **Parking requirement.** Parking for public educational facilities of The School District of Palm Beach county must be provided pursuant to Section 4.6.9(C)(6)(e). [Amd. Ord. 24-02 7/16/02]
  - (5) **Other regulations.** All Public Education Facilities of The School Board of Palm Beach County must comply with Chapter 235 of the Florida Statutes and the State Requirements for Educational Facilities as amended. [Amd. Ord. 24-02 7/16/02]; [Amd. Ord. 79-94 10/18/94]
- (HHH) **Private schools and other similar education facilities.** [Amd. Ord. 18-02 6/18/02]
- (1) **Floor area.** Facilities shall contain a minimum floor area of 35 square feet per child, exclusive of space devoted to bathrooms, halls, kitchen, offices, and storage. [Amd. Ord. 18-02 6/18/02]
  - (2) **Loading area.** A pickup and drop-off area for children shall be provided in a convenient area adjacent to the building and shall provide clear ingress and egress to the building. A minimum of 100 feet dedicated to vehicular drop-off/pick-up lane shall be provided. The stacking area is measured from the loading area and shall not block drive-aisles or parking areas. A greater distance may be required by the approving body based on the intensity of the Private School. A lesser stacking distance may be approved by the Board based on a traffic impact statement. Pathways that cross vehicular use areas shall be defined by special pavings, brick, striping or other method acceptable to the Board. [Amd. Ord. 18-02 6/18/02]
  - (3) **Outdoor area.** There shall be a minimum area of 75 square feet of outdoor play area per student. The play area shall be located on the same lot as the principal use and shall not be located in the front yard setback. The play area shall be surrounded by a six-foot-high opaque fence or chain link fence with a six-foot-high hedge. Outdoor play areas shall meet the minimum setbacks in the PC zoning district per LDR Section 4.3.4(K). Relief from this requirement shall only be granted by the City Commission through the waiver process [Section 2.4.7(B)]. [Amd. Ord. 18-02 6/18/02]
  - (4) **Transport vehicles.** For private schools that utilize transport vehicles, an area must be designated for the parking/storage of these vehicles and that these areas be screened when visible from a public right-of-way or residentially zoned property in accordance with LDR Section 4.6.4(A) and 4.6.16(H)(3)(e). [Amd. Ord. 18-02 6/18/02]

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- (5) **Other regulations.** All Private Schools and Similar Facilities shall comply with the American Disability Act (ADA), Standard Building Code, Fire Codes, and any other regulations including State and County regulations as may be required. [Amd. Ord. 18-02 6/18/02]
- (6) **Private school facilities.** Private school facilities shall be limited to a maximum of 100 students when located in the PC district. [Amd. Ord. 18-02 6/18/02]
- (I) **Community residences application form and conditional use permit requirements.** (Ord. No. 25-17, § 6, 7-18-17)
- (1) **Application form.** A "Community Residence Zoning Application" form shall be required for all community residences with any number of occupants established beginning on the date on which this ordinance goes into effect, for any existing community residence with any number of occupants not licensed by the State of Florida that had not been granted a reasonable accommodation by the City of Delray Beach under the provisions of Section 2.4.7(G) that this ordinance amends, and for the recertification of any existing community residence with any number of occupants to which the City of Delray Beach granted a reasonable accommodation prior to the date on which this ordinance went into effect. The "Community Residence Zoning Application" form shall be obtained from and shall be returned to the Director of the Planning, Zoning, & Building Department or his/her designee prior to occupancy or construction of the proposed community residence to determine whether the proposed community residence is a permitted use or requires a conditional use permit, to determine the maximum number of occupants allowed under city code provisions that apply to all residential uses, to determine the minimum number of off-street parking spaces required, and to identify whether any further accommodation is needed in accord with Section 2.4.7(G), "Requests for Accommodation" of these LDRs. (Ord. No. 25-17, § 6, 7-18-17)
- (2) **Applicability.** Subsection 4.3.3 (I)(1) shall be applicable to all community residences with any number of residents while subsections 4.3.3(I)(3) through 4.3.3(I)(6) are applicable only to those community residences that require a conditional use permit and house more than three unrelated individuals. (Ord. No. 25-17, § 6, 7-18-17)
- (3) **Purpose of conditional use permit.** In conjunction with Section 2.4.5(E) of these LDRs, the purpose of this section is to provide narrowly-tailored standards for determining whether to make the reasonable accommodation of granting a conditional use permit to ensure that the community residences these LDRs require to obtain a conditional use permit will: (Ord. No. 25-17, § 6, 7-18-17)
- (a) Be located a sufficient distance from any existing community residences so that the proposed community residence does not lessen nor interfere with the normalization and community integration of the residents of existing community residences or combine with any existing community residences to contribute to the creation or intensification of a de facto social service district, (Ord. No. 25-17, § 6, 7-18-17)
- (b) Operate as a functional family (also known as emulating a biological family) that fosters normalization and community integration of its residents, and (Ord. No. 25-17, § 6, 7-18-17)
- (c) Operate in a manner consistent with the protections afforded by the State of Florida's licensing or certification standards for community residences serving individuals with disabilities similar to those of the proposed community residence in order to protect the residents of the proposed community residence from abuse, exploitation, fraud, theft, insufficient support, use of illegal drugs or alcohol, and misuse of prescription medications. (Ord. No. 25-17, § 6, 7-18-17)

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- (4) **Standards for awarding a conditional use permit.** A required conditional use permit may be issued only if the proposed community residence meets the following standards: (Ord. No. 25-17, § 6, 7-18-17)
- (a) When the proposed community residence is required to obtain a conditional use permit because it would be located within 660 linear feet of an existing community residence, (Ord. No. 25-17, § 6, 7-18-17)
1. The applicant demonstrates that the proposed community residence will not interfere with the normalization and community integration of the residents of any existing community residence and that the presence of other community residences will not interfere with the normalization and community integration of the residents of the proposed community residence, and (Ord. No. 25-17, § 6, 7-18-17)
  2. The applicant demonstrates that the proposed community residence in combination with any existing community residences will not alter the residential character of the surrounding neighborhood by creating an institutional atmosphere or by creating or intensifying a de facto social service district by concentrating community residences on a block or in a neighborhood. (Ord. No. 25-17, § 6, 7-18-17)
- (b) When the proposed community residence is required to obtain a conditional use permit because the State of Florida does not offer a license or certification for this type of community residence and the population it would serve, the application must demonstrate that the proposed community residence will be operated in a manner effectively similar to that of a licensed or certified community residence, that staff will be adequately trained, that the home will emulate a biological family and be operated to achieve normalization and community integration, and that the rules and practices governing how the home is run will actually protect residents from abuse, exploitation, fraud, theft, insufficient support, use of illegal drugs or alcohol, and misuse of prescription medications. (Ord. No. 25-17, § 6, 7-18-17)
- (c) When the proposed transitional community residence is a conditional use in a specific zoning district, (Ord. No. 25-17, § 6, 7-18-17)
1. The applicant demonstrates that the proposed transitional community residence will not interfere with the normalization and community integration of the residents of any existing community residence and that the presence of other community residences will not interfere with the normalization and community integration of the residents of the proposed community residence, and (Ord. No. 25-17, § 6, 7-18-17)
  2. The applicant demonstrates that the proposed transitional community residence in combination with any existing community residences will not alter the residential character of the surrounding neighborhood by creating an institutional atmosphere or by creating or intensifying a de facto social service district by concentrating community residences on a block or in a neighborhood, and (Ord. No. 25-17, § 6, 7-18-17)
  3. The applicant demonstrates that the proposed transitional community residence will be compatible with the residential uses allowed as of right in the zoning district, and (Ord. No. 25-17, § 6, 7-18-17)

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4. When the proposed transitional community residence would be located in a single-family zoning district, the applicant demonstrates that the proposed transitional community residence will not alter the residential stability of the single-family zoning district, and (Ord. No. 25-17, § 6, 7-18-17)
  5. The applicant demonstrates that the applicant or the proposed transitional community residence has been granted certification by the State of Florida or license required by the State of Florida, and (Ord. No. 25-17, § 6, 7-18-17)
  6. When the State of Florida does not offer certification or require a license for this type of transitional community residence and the population it would serve, the application must demonstrate that the proposed transitional community residence will be operated in a manner effectively similar to that of a licensed or certified community residence, that staff will be adequately trained, that the home will emulate a biological family and be operated to achieve normalization and community integration, and that the rules and practices governing how the home is run will actually protect residents from abuse, exploitation, fraud, theft, insufficient support, use of illegal drugs or alcohol, and misuse of prescription medications. (Ord. No. 25-17, § 6, 7-18-17)
- (5) **[Request for reasonable accommodation.]** To establish a community residence for more than ten individuals with disabilities, the applicant shall submit a Request for Reasonable Accommodation in accord with the procedures of Section 2.4.7 (G) of these LDRs. In all cases the City Manager or designee shall make findings of fact in support of all determinations and shall render the decision in writing. The City Manager or designee may meet with and interview the applicant to ascertain or clarify information sufficiently to make the required findings. To grant a Reasonable Accommodation to allow more than ten occupants in a community residence, the City Manager or designee shall affirmatively find compliance with all of the following standards in addition to the general standards promulgated in Section 2.4.7 (G)(4) of these LDRs: (Ord. No. 25-17, § 6, 7-18-17)
- (a) The applicant specifies by how many individuals it wishes to exceed the as of right maximum of ten residents and adequately demonstrates the financial and/or therapeutic need to house the proposed number of residents, and (Ord. No. 25-17, § 6, 7-18-17)
  - (b) The primary function of the proposed community residence is residential where any treatment is merely incidental to the residential use of the property, and (Ord. No. 25-17, § 6, 7-18-17)
  - (c) The applicant demonstrates that it will ensure that the proposed community residence emulates a biological family and operates as a functional family rather than as an institution, boarding house, nursing home, short term vacation rental, continuing care facility, motel, hotel, treatment center, rehabilitation center, or a nonresidential use, and (Ord. No. 25-17, § 6, 7-18-17)
  - (d) The applicant demonstrates that the requested number of residents in the proposed community residence will not interfere with the normalization and community integration of the occupants of any existing community residence. (Ord. No. 25-17, § 6, 7-18-17)
- (6) **[Review; fee.]**A conditional use permit under this Section will be reviewed in accord with Section 2.4.5(E), however the fee for consideration of a conditional use permit under this Section is \$300.00 as this type of conditional use is a form of reasonable accommodation and therefore the fees set for conditional uses in Section 2.4.3(k)(1)(r) are not applicable. (Ord. No. 25-17, § 6, 7-18-17)

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- (II) **Senior housing.** See the definition of Senior Housing for clarification of terms and qualifying standards. [New Section Enacted by Ord. 39-05 6/21/05]
- (1) **Floor area.**
- (a) **Rooms.** The total floor area for each unit shall be a minimum of 400 square feet in area.
  - (b) **Common area.** At least ten percent of the total floor area shall be devoted to a common area, exclusive of halls, corridors, stairs, and elevator shafts, wherein a variety of recreational or therapeutic activities may occur.
- (2) **Facilities and requirements.**
- (a) A sleeping room and separate bathroom facilities shall be provided for an on-site property manager who is required to remain on the premises overnight.
  - (b) Adult residents may utilize private medical care or personal services while in residence and may not have a nurse in residence.
  - (c) No more than two (2) residents shall be housed per unit.
  - (d) Senior Housing located in any zoning district shall provide outdoor amenities, landscaping, design features, and yard space to serve the residents. Such features shall be reviewed and approved concurrent with Conditional Use Approval.
  - (e) The facility shall not provide non-recreational services such as beautician, barber, tailor, seamstress, sale of convenience goods, and entertainment.
  - (f) Commercial rated cooking equipment may be permitted provided such features shall be reviewed and approved concurrent with the Conditional Use approval. Meals prepared from this equipment shall only serve the residents.
  - (g) The facility shall accommodate low to very-low income residents 60 years of age or older.
- (3) **Intensity.** A minimum of 900 square feet of lot area is required per bedroom.
- (4) **Appearance.** Senior Housing Facilities shall have building elevations which are residential in character and similar in appearance to the surrounding neighborhood and shall not be institutional in appearance as determined by the Site Plan Review and Appearance Board or the Historic Preservation Board.
- (5) **Locational factors.**
- (a) Such use shall also be within a 600 foot radius of a mass transit stop.
  - (b) Such use shall not be located within a radius of 1,000 feet, measured from parcel to parcel, of another senior housing facility.
- (6) **Parking requirement.** One parking space shall be provided for each sleeping room plus one parking space shall be provided for an on-site property manager.
- (7) **Signage.** Signage is limited to one freestanding sign with a maximum of eight square feet in area and a maximum height of three feet, measured from finished grade to highest point.
- (J) **Gasoline station.** A gasoline station is any establishment at which the sale and delivery of fuel to a motor vehicle occurs. Gasoline stations are classified as to other activities which occur on the site of the establishment and are thus regulated as provided for herein.
- (1) **Service station.** A gasoline station which also sells and delivers lubricants and other products necessary to the operation of vehicles. It may include the sale and installation of accessories, tires, batteries, seat covers; and the provision of services such as tire repair, tune-ups, minor

engine repair, wheel balancing and alignment, brake servicing, and washing either by hand or by an automated car wash facility. Food and drinks may be accommodated only through the use of vending machines.

- (2) **Convenience mart (gasoline station with food sales).** A gasoline station which also sells foods and convenience items and does not accommodate repair or installation services provided that the sale of food and convenience items is secondary to use as a gasoline station.
- (3) **Full service station.** A gasoline station at which activity of a service station and the sale of food and convenience items occurs.
- (4) **Incidental gasoline sales.** A gasoline station at which the sale of fuel is incidental or secondary to the primary function of the site as a retail business. There may be no outside display of vehicle products (oil, tires, etc.) at such a facility.
- (5) **General development standards.** Development standards as set forth in the following shall apply to sites upon which a service station or convenience mart is to be located. An establishment with incidental gasoline sales shall be governed by the site development requirements for the site and the main business except that the requirement of Subsection (6) shall apply. A full service station shall adhere to a combination of the requirements for a service station and a convenience mart.

ITEM	SERVICE STATION	CONVENIENCE MART
Minimum Lot Area	15,000 Square Feet	15,000 Square Feet
Minimum Frontage	150 Feet	150 Feet
Parking Requirements	4.5/1,000 sq. ft. of non-repair gross floor area and 4 spaces per Service Bay or Lift	4.5/1,000 Square Feet of Gross Floor Area
Driveways	There shall be no more than two curb-cuts to any abutting street with a minimum distance of 25 feet between curb-cuts. Curb-cuts shall not have a width exceeding 35 feet, exclusive of transitions. Curb-cuts shall not be located closer than 25 feet to the intersection of the ultimate right-of-way lines at a corner nor closer than 15 feet from any abutting property line or alley.	

- (6) **Gasoline facility development standards.** The following standards apply to whatever classification, a gasoline station has.
  - (a) **Location of dispensers.** Gasoline dispensers, tanks, dispenser island, and canopies shall not be located closer than 15 feet from any property line. When property directly abuts residentially zoned property, gasoline dispensers, tanks, dispenser islands and canopies, signs, or vents shall not be located closer than 40 feet from the property line abutting the residentially zoned property.
  - (b) **Storage tanks.** All storage tanks shall be underground.
  - (c) **Lift and repair facilities.** All such facilities shall be located within a structure.
  - (d) **Display of products.** Vending machines are to be located under roof and screened on three sides. Racks containing cans of lubricating oil may be displayed on service islands. Racks or

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pedestals used for the display of tires shall be located along any side (as opposed to front) of a structure.

- (K) **Home occupations.** A home occupation is one conducted in a dwelling unit under the following restrictions:
- (a) No person other than members of the family residing on the premises shall be engaged in such occupation.
  - (b) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and shall under no circumstances change the residential character thereof.
  - (c) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation.
  - (d) In the single-family zoning districts, no sign or display shall be visible other than an unlighted nameplate not exceeding one square foot in area, which would indicate from the exterior that the building is being partially used for any purpose other than a dwelling. In the multiple family zoning districts, no sign of any type shall be allowed.
  - (e) No home occupation shall be conducted in any accessory building.
  - (f) No home occupation shall occupy more than 20 percent of the first floor area of the residence, exclusive of the area of any open porch or attached garage or similar space not suited or intended for occupancy as living quarters.
  - (g) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in the required front setback.
  - (h) No equipment or process shall be used in such home occupation which creates fumes, glare, noise, odors, vibration, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises.
  - (i) The following shall not be considered home occupations: antique or gift shops, musical instruments or dance instructor, barbershops, beauty shops, food processing, fortune-telling or similar activity, massage parlors, medical or dental laboratories, outdoor repair, photographic studio, retail sales, studio for group instruction, swimming instructor, and tearooms. The giving of group instruction of any type shall not be deemed a home occupation.
  - (j) The giving of individual instruction to one person at a time such as an art or piano teacher, shall be deemed a home occupation, provided however, that the provisions of subsection (i) above shall apply, as to prohibiting individual uses.
  - (k) Fabrication of articles such as those commonly classified under the terms of arts and handicrafts may be deemed a home occupation, subject to the other terms of this subsection, and providing no retail sales are made at the home.
  - (l) A home occupation shall be subject to all applicable city occupational licenses and other business taxes.
- (KK) **Home tutorial services.** [Amd. Ord. 79-94 10/18/94]
- (1) Shall only be as an accessory use in a private residence. [Amd. Ord. 79-94 10/18/94]
  - (2) Is limited to no more than five students at any one time. [Amd. Ord. 79-94 10/18/94]

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- (3) Traffic generated by such Home Tutorial Services shall not exceed traffic volumes than would normally be expected in a residential neighborhood. Any need for parking generated by the operation of such Home Tutorial Services shall be met off the street and other than in the required front setback. [Amd. Ord. 79-94 10/18/94]
  - (4) Home Tutorial Services shall not occupy more than 20 percent of the first floor area of the residence, excluding the area of any open porch, attached garage, or similar space which is not suited or intended for occupancy as living quarters. [Amd. Ord. 79-94 10/18/94]

(KKK) **Live/work units.** [New Section Ord. 23-10 10/5/10]

(1) **General.**

- (a) The occupant of the residential unit must be the proprietor or owner of the business that occupies the nonresidential portion of the building.
- (b) Only one additional employee may work at the business.
- (c) Residential appearance must be maintained.
- (d) Unlighted signage with a maximum of 2 SF is permitted.
- (e) The Live/Work Unit must face either a public or private street that has available on-street parking.
- (f) May only be permitted with new development approvals, or modifications to approved site plans for buildings that have not begun construction.
- (g) The non-residential use must be internally connected to the residential unit and must also provide direct access from the public sidewalk adjacent to the street.
- (h) The Live-Work Unit shall meet the Florida Building Code requirements at the time of construction for mixed occupancy buildings.
- (i) Access to all Live-Work Units shall be clearly identified in order to provide for emergency services.

(2) **Allowed non-residential uses.** Live-Work Units may include the following non-residential uses:

- (a) Business services, including but not limited to: commercial artist, photography, computer programming, detective agency, editing/proofreading, mail service, paralegal, photocopying service, secretarial service, telemarketing service.
- (b) Personal Services, including but not limited to: alterations/dressmaking, barber/beauty shop, income tax service, locksmith, shoe shine and repair, tailor shop, massage, pedicure, photographic studio [subject to 4.3.3.KKK(4)(d)], facials, and fortune teller or similar if geographically allowed by the LDRs.
- (c) Professional Services, including but not limited to: title company, accountant, insurance adjusters, advertising office, appraiser, architect, attorney, auditor, broker, contractors office (no construction materials permitted), stenographers, engineers office, interior decorating, loan company, model agencies, notary public office, real estate sales/management, stock exchanges, travel agency.
- (d) Fabrication of arts and handicrafts, with retail sales limited to materials fabricated by the owner/proprietor.

(3) **Interim residential use.**

- (a) Residential use is permitted in the approved non-residential portion of a Live-Work Unit.

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- (b) Prior to the issuance of a Business Tax Receipt for an approved non-residential use within the Live-Work unit, the applicant shall apply to the City for a change in use, and indicate that the unit was previously designated as a Live-Work Unit as part of a development approval.

(4) **Operation.**

- (a) The net area devoted to an approved non-residential use shall be a maximum of 200 square feet. The "net area" means all areas not utilized for stairways, vestibules, hallways, closets, bathrooms, and garages.
- (b) One hundred percent of the building's net area above the ground floor shall be designated as residential.
- (c) The non-residential use of a Live-Work Unit may operate only from 8:00 a.m. to 6:00 p.m.; deliveries are limited to between 9:00 a.m. to 6:00 p.m.
- (d) Non-residential uses creating industrial-type impacts, such as those that involve processes that generate significant amounts of heat, require the use of heavy machinery, loud speakers, bells, or emit gases, fumes, and/or smoke or that create a nuisance (i.e., noise, odors and/or vibration) are prohibited.

(L) **Hospitals.**

- (1) **Lot area.** The minimum lot area shall be five acres
- (2) **Frontage.** The minimum frontage shall be 300 feet.
- (3) **Setbacks.** No structure shall be located within 50 feet of a property line. Parking areas shall not be located within 25 feet of a property line.
- (4) **Intensity.** The maximum intensity, in terms of patient rooms is 30.37 patient rooms per acre computed on the basis of one patient room allowable for each 1,500 square feet of lot area.
- (5) Use Restriction: No rooms or suites shall be designed, altered, or maintained for housekeeping or family living purposes.

(LL) **Kidney dialysis centers.** [Amd. Ord. 35-06 6/20/06]

- (1) **Generators.** [Amd. Ord. 35-06 6/20/06]
  - (a) All new kidney dialysis centers that apply for a building permit on or after July 1, 2006 shall provide auxiliary power generators; and [Amd. Ord. 35-06 6/20/06]
  - (b) All kidney dialysis centers in existence prior to July 1, 2006 shall have two years from the effective date of this ordinance to provide auxiliary power generators; and [Amd. Ord. 35-06 6/20/06]
  - (c) Generators shall not be dependent on a municipal water supply for cooling purposes; and [Amd. Ord. 35-06 6/20/06]
  - (d) Generators shall be designed and equipped to operate the full capacity of all of the kidney dialysis machines in the facility for a period not less than 120 hours; and [Amd. Ord. 35-06 6/20/06]
  - (e) Generators shall be tested at least once a month and a test log shall be maintained for inspection by the City of Delray Beach, upon request. [Amd. Ord. 35-06 6/20/06]

(LLL) **Pharmacies.** [Amd. Ord. 35-06 6/20/06]

- (1) **Generators.** [Amd. Ord. 35-06 6/20/06]

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- (a) All new pharmacies that apply for a building permit on or after July 1, 2006 shall provide auxiliary power generators; and [Amd. Ord. 35-06 6/20/06]
  - (b) All pharmacies in existence prior to July 1, 2006 shall provide auxiliary power generators within two years of the effective date of this ordinance; and [Amd. Ord. 35-06 6/20/06]
  - (c) Generators shall not be dependent on a municipal water supply for cooling purposes; and [Amd. Ord. 35-06 6/20/06]
  - (d) Generators shall be designed and equipped to operate the full capacity of the facility for a period of not less than 120 hours; and [Amd. Ord. 35-06 6/20/06]
  - (e) Generators shall be tested at least once a month and a test log shall be maintained for inspection by the City of Delray Beach, upon request. [Amd. Ord. 35-06 6/20/06]

(LLLL) **Medical, professional and business offices, and medical clinics.** [Amd. Ord. 36-10 10/19/10] [New Section Ord. 50-09 10/20/09]

- (1) **Applicability.** Medical, Professional and Business Offices, and Medical Clinics shall be subject to the following: [Amd. Ord. 36-10 10/19/10]; [Amd. Ord. 13-10 6/15/10]
  - (a) On-site dispensing of controlled substances that are identified in Schedule II, III, or IV in Sections 893.03, and as further amended by Sections 893.035 or 893.0355, Florida Statutes, is prohibited, unless otherwise expressly permitted by statutory or general law. The following are exempt from this prohibition: [Amd. Ord. 13-10 6/15/10]
    - (i) A health care practitioner when administering a controlled substance directly to a patient if the amount of the controlled substance is adequate to treat the patient during that particular treatment session.
    - (ii) A pharmacist or health care practitioner when administering a controlled substance to a patient or resident receiving care as a patient at a hospital, nursing home, ambulatory surgical center, hospice, or intermediate care facility for the developmentally disabled which is licensed in this state.
    - (iii) A health care practitioner when administering a controlled substance in the emergency room of a licensed hospital.
    - (iv) A health care practitioner when administering or dispensing a controlled substance to a person under the age of 16.
    - (v) A health care practitioner when dispensing a one-time, 72-hour emergency resupply of a controlled substance to a patient.
- (2) **Appeal.** An appeal from an administrative determination or board action, excluding the granting or denial of a variance, regarding Medical Offices shall be appealed to the City Commission. The applicant shall follow the procedures and requirements set forth in Section 2.4.7(E). In addition to the requirements listed in Section 2.4.7(E) the applicant shall also list the following:
  - (a) If the applicant is a potential claimant under a federal or state law; and
  - (b) That the applicant believes in good faith that the City through implementation of this section has intentionally or unintentionally violated federal or state law. The law(s) the City has allegedly violated shall be identified.

(M) **Hotels and motels.**

- (1) **Minimum floor area.** Each sleeping room shall contain a minimum floor area of 325 square feet including closets and baths.

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- (2) **Orientation.** If lounges, limo service, or rental car counters are provided as accessory uses, such uses shall be oriented primarily to guests of the establishment and shall be located within the building so as to not be visible to the general public, unless so approved through the conditional use process.
  - (3) **Accessory signs.** Signage designating those accessory uses allowed in conjunction with a hotel shall be prohibited from being attached to the outside of the hotel unless such signage is approved as part of a conditional use approval.

(MM) **Grocery stores.** [Amd. Ord. 35-06 6/20/06]

- (1) **Generators.** [Amd. Ord. 35-06 6/20/06]
  - (a) All new grocery stores that apply for a building permit on or after July 1, 2006 that are 10,000 square feet or larger in size must provide auxiliary power generators; and [Amd. Ord. 35-06 6/20/06]
  - (b) All grocery stores that are in existence prior to July 1, 2006 and are 10,000 square feet or larger in size must provide auxiliary power generators within six years of the effective date of this ordinance or at the time of renovations exceeding 25 percent of the facility value, whichever comes first; and [Amd. Ord. 35-06 6/20/06]
  - (c) Generators shall not be dependent on a municipal water supply for cooling purposes; and [Amd. Ord. 35-06 6/20/06]
  - (d) Generators shall be designed and equipped to operate the facility's refrigeration and freezer equipment in addition to basic lighting for customers and employees for a period of not less than 120 hours; and [Amd. Ord. 35-06 6/20/06]
  - (e) Generators shall be tested at least once a month and test logs shall be maintained for inspection by the City of Delray Beach, upon request. [Amd. Ord. 35-06 6/20/06]

(N) **Towing and attendant storage facilities.**

- (1) **Screening.** Outdoor motor vehicle storage must be entirely surrounded by a fence or wall which is a minimum of six feet in height. The enclosure shall be provided with vision obscuring gates.
- (2) **Landscaping.**
  - (a) **Frontage.** Along the frontage, the fence or wall shall be located along the interior of a required perimeter landscape strip of a minimum of ten feet. Shade trees shall be provided every 25 linear feet in addition to hedging.
  - (b) **Other sides.** Along other perimeters, the fence or wall shall be set on the property line with a ten-foot curbed planting island every 40 linear feet and shall abut the interior of the wall. One shade tree, with a minimum height of 12 feet and a minimum spread of six feet shall be planted therein.

(O) **Townhouses and townhouse type of development.**

- (1) **Application.** These special requirements apply to townhome or townhouse development and to apartment complexes which are designed in the style of a townhome, except projects located within the Central Business District and Central Business District - Railroad Corridor, which shall comply with the applicable district regulations. [Amd. Ord. 64-04 11/16/04]; [Amd. Ord. 21-04 5/4/04]
- (2) **Plat required.** Each townhouse, or townhouse type, development shall be platted with a minimum designation of the interior street system as a tract. When the dwelling units are to be sold, each such unit must be shown on the plat.

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- (3) **Setbacks.** Setbacks shall be measured as follows:
- (a) Setbacks from the perimeter of the overall project shall be as established by the base zone district requirements.
  - (b) Setbacks interior to the project shall be measured from the platted street system.
  - (c) Setbacks interior to the project with respect to side and rear lot lines shall not be observed; but in-lieu thereof structures (dwelling unit groups) shall not be located closer than 25 feet for a two-story structure, nor 30 feet or a three story, or greater, structure.
- (4) **Design standards.**
- (a) No more than two townhomes may be constructed without providing a front setback of not less than four feet offset front to rear.
  - (b) No townhouse row shall consist of more than eight (8) dwelling units or a length of 200 feet, whichever is less.
  - (c) Service features, garages, parking areas, and entrances to dwelling units shall, where possible, be located on a side of the individual lot having access to the interior street. Walkways should be designed to connect dwelling units with each other and connect each dwelling unit with common open space.
  - (d) Not less than 25 percent of the total area, less water bodies, shall be usable open space, either for recreational or some other suitable purpose, public or private. For the purpose of this section; streets, driveways, garages, parking areas, and water bodies shall not be construed as usable open space.

(OO) **Multifamily residential buildings equipped with elevators.**

- (1) **Generators.**
- (a) All new multifamily residential buildings (including hotels and motels) equipped with public elevators that apply for a building permit after the effective date of this ordinance shall provide auxiliary power generators for all interior corridor lighting and exit signs and at least one public elevator; and
  - (b) All existing (as of the date of this ordinance) multifamily residential buildings, including but not limited to apartments, hotels and motels, but excluding condominiums, that are three stories or more in height, and that are equipped with public elevators, shall provide auxiliary power generators for all interior corridor lighting and exit signs and at least one public elevator within six years of the effective date of this ordinance; and
  - (c) All existing (as of the date of this ordinance) condominium residential buildings that are equipped with public elevators and that are three stories or more in height, shall provide auxiliary power generators for all interior corridor lighting and exit signs and at least one public elevator within six years of the effective date of this ordinance, unless by a two-thirds vote of the unit owners it is agreed to not provide the auxiliary power generators; and
  - (d) In the event that a condominium residential building is converted to an apartment residential building, or vice versa, the building shall be required to comply with the applicable City ordinances.
  - (e) Generators shall not be dependent on a municipal water supply or cooling purposes; and
  - (f) Generators shall be designed and equipped to operate the full capacity of the equipment being served for a period not less than 120 hours; and

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- (g) Generators shall be tested at least once a month and a test log shall be maintained for inspection by the City of Delray Beach, upon request.
  - (h) All building permit fees for the installation of the generators installed pursuant to this ordinance shall be waived.

(OOO) **Clubhouses and country clubs.** [Amd. Ord. 35-06 6/20/06]

(1) **Generators.** [Amd. Ord. 35-06 6/20/06]

- (a) All new clubhouses and/or country clubs in residential communities that apply for a building permit on or after July 1, 2006 shall provide auxiliary power generators; and [Amd. Ord. 35-06 6/20/06]
- (b) Generators shall not be dependent on a municipal water supply for cooling purposes; and [Amd. Ord. 35-06 6/20/06]
- (c) Generators shall be designed and equipped to operate the full capacity of the facility for a period not less than 120 hours; and [Amd. Ord. 35-06 6/20/06]
- (d) Generators shall be tested at least once a month and a test log shall be maintained for inspection by the City of Delray Beach, upon request. [Amd. Ord. 35-06 6/20/06]

(P) **Satellite dish—Satellite television antenna.**

- (1) A satellite dish or satellite television antenna that is greater than one meter (39.37 inches) in diameter or any size satellite dish that is mounted on a mast higher than 12 feet above the roof line shall be considered a structure and shall require a building permit. Antennas or dishes shall be of non-combustible and corrosive resistant material, shall be erected in a secure wind resistant manner, and shall be adequately grounded for protection against direct strike of lightning. Portable satellite dishes are not permitted. Only satellite dishes which are actually required for obtaining a signal may be erected and maintained on any property. Satellite dishes may not be used for display or advertising purposes on the exterior of any structure. Where a commercial enterprise is engaged in the sale of satellite dishes, the erection of more than two dishes (each of which shall be of different sizes) which perform essentially the same function, on the exterior of the structure shall be presumed to be for display or advertising purposes. Satellite dishes may not have any writing on them which is visible from the right-of-way. These structures shall be subject to the provisions of Chapter Seven, Building Regulations, which do not conflict with this section as well as the following conditions: [Amd. Ord. 34-04 8/3/04]
  - (a) **Application process.** The application for a permit shall be reviewed by the Building Department for a determination that the structure is designed and will be erected in a manner which meets the technical requirements of the code including those set forth in this section. The City Horticulturist shall review the plans for screening the structure.
    - 1. All satellite dishes and/or satellite television antennas that are smaller than one meter (39.37 inches) in diameter and that receive video programming signals such as Direct Broadcast Satellites ("DBS"), Multichannel Multipoint Distribution (wireless cable) providers ("MMDS"), and Television Broadcast Stations (TVBS") shall not require a permit and shall be exempted from these regulations but shall be subject to removal if they are located as to create a hazard or safety issue. [Amd. Ord. 34-04 8/3/04]
  - (b) **Screening.** The satellite dish shall be effectively screened from off-premises view and from visibility from public rights-of-way to the greatest extent practicable, except that such screening shall not be required in locations surrounding the satellite dish where and only to the extent it is proved that such screening interferes with reception. The visibility of the

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satellite dish shall be mitigated as much as possible by screening. The structure shall be screened by the use of landscaping or by a nonliving barrier such as a wall or fence, or by some combination of the above. Walls or fences used for screening may not exceed six feet in height unless they are erected in compliance with the building setbacks. Trees and shrubs used in screening shall be of a species capable of obtaining such height, spread, and density of canopy at maturity so as to effectively screen the satellite dish from off-premises view. Landscaping to be used as screening shall be planted at the time of construction or placement of the satellite dish and the landscaping shall be at least equal to four feet at the time of planting. Landscaping shall be maintained by the property owner or the persons or groups in control of the property in a manner which will encourage maximum screening without interference with the maintenance or operation of the satellite dish.

- (2) The following requirements apply in single-family districts.
- (a) One noncommercial satellite dish per residential dwelling unit shall be permitted.
  - (b) The satellite dish shall be located on the lot in the rear of the house or in a side yard (which does not front on a public right-of-way) behind the front roof line of the house provided that the satellite dish shall be substantially screened from the right-of-way and from the adjacent property. A satellite dish must be located so as to provide the screening required by subsection (P)(1)(b) above.
  - (c) Notwithstanding the provisions of the above, and subject to sufficient proof being submitted to the city, to prove that it is not possible to locate a proposed satellite dish in the rear yard or side yard as described above, then and only then satellite dishes which are 12 feet in diameter or less may be permitted on the roof of property in a single-family residential zoning district and such a dish may not be more than eight feet above the roof line as measured from the highest point of the dish.
- (3) The following requirements apply in multi-family districts:
- (a) Satellite dishes may be erected on individual multi-family lots if the ownership of an individual unit includes ownership of sufficient property to locate the dish in compliance with the requirements in single-family districts. (Property owned jointly or in common with other unit owners may not be used for purposes of calculating the unit owner's individual property.) Nothing in this provision shall be construed to alter or impair any rights, authority, or restrictions imposed by deed or under the rightful authority of any homeowners' association.
  - (b) A satellite dish in a multi-family district may be erected to meet the following requirements:
    - 1. Only one satellite dish (other than those complying with (a) above) may be located in a multi-family complex and must be placed so as to be effectively screened from all public rights-of-way and adjacent residential complexes. In no event shall the dish be placed between a structure and any public right-of-way (other than an alleyway) unless the dish can be erected in compliance with this section and other code requirements so as to be entirely invisible from the public right-of-way and adjacent residential developments.
    - 2. Satellite dishes must be located to provide the screening required in subsection (1)(b).
    - 3. A satellite dish may not be located on a roof unless it complies with subsection (2)(c).

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- (4) The following requirements apply in commercial and industrial zoning districts.
- (a) The satellite dish shall be located on the property so as to be effectively screened from all public rights-of-way and adjacent residential properties
  - (b) A satellite dish may not be located on a roof so that the dish would thereby be visible from a public right-of-way or residential district; provided, however, if it is proved that there is no such location on a roof where the satellite dish may be located to gain proper reception, then and only then such a satellite dish may be located where it might be so visible, but only to the extent required to gain such proper reception.
  - (c) Satellite dishes which are mounted on a tower and used for communication in connection with the operation of a business shall be required to provide reasonable screening and shall be subject to conditional use approval.
- (5) Nothing herein shall be construed to allow the use of any public rights-of-way for the carriage of a signal from a satellite dish erected in compliance with this section.
- (6) The City Manager shall have authority to grant administrative relief from LDR Section 4.3.3(P) to allow temporary portable satellite dishes provided that: [Amd. Ord. 76-94 10/18/94]
- (a) The satellite facilities are part of an approved special event. [Amd. Ord. 76-94 10/18/94]
  - (b) The administrative relief shall not exceed ten calendar days in duration. [Amd. Ord. 76-94 10/18/94]

(Q) **Guest cottage.**

- (1) Can only be used by members of the family occupying the principal dwelling, their nonpaying guests, (except in Bed and Breakfast Inns), or persons employed for service on the premises. [Amd. Ord. 11-10 7/20/10]; [Amd. Ord. 56-01 10/16/01]
- (2) The guest cottage shall not occupy more than one-twentieth of the lot area and in no case shall exceed a floor area of 700 square feet. [Amd. Ord. 38-07 2/5/08]
- (3) The structure shall be located to observe the setback requirements as imposed for the principal structure.
- (4) When located on individually designated historic properties or within designated historic districts, the structure shall not exceed the height of the principal structure. [Amd. Ord. 38-07 2/5/08]
- (5) Only one (1) guest cottage shall be allowed on a property. [Amd. Ord. 11-10 7/20/10]

- (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. [Amd. Ord. 59-93 10/12/93]
- Enacted the following new Subsection (S) Telecommunication Towers and Antennas. [Amd. Ord. 21-97 6/3/97]

(RR) **Rooftop uses.** (Ord. No. 02-21, § 2, 3-2-21)

- (1) **Purpose and intent.** These regulations are intended to provide guidance for the use of rooftop terraces in residential and non-residential zoning districts while maintaining building scale,

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privacy, and character of the surrounding area. The use of rooftops in mixed-use and commercial zoning districts is encouraged to create unique gathering spaces and to support sustainability efforts. (Ord. No. 02-21, § 2, 3-2-21)

- (2) **Allowable rooftop uses.** (Ord. No. 02-21, § 2, 3-2-21)
- (a) **Rooftop uses in all residential zoning districts.** Rooftop uses shall not be located higher than 26 feet and shall be limited to open air terraces and amenities that are ancillary or accessory to the principal use, including but not limited to outdoor kitchen areas, swimming pools, and hot tubs. Rooftops located higher than 26 feet shall not have rooftop uses, may only be accessed for maintenance and repair, and shall not provide elevator access. (Ord. No. 02-21, § 2, 3-2-21)
  - (b) **Rooftop uses in non-residential and mixed-use zoning districts.** Central Business District (CBD) rooftop terraces shall be regulated by Section 4.4.13. Rooftops in OSSHAD and RO located higher than 26 feet shall not have principal or accessory rooftop uses, may only be accessed for maintenance and repair, and shall not provide elevator access. For all other nonresidential zoning districts, rooftops may be used for the following uses when allowed in the zoning district, subject to the height limitations in Section 4.3.4(J). (Ord. No. 02-21, § 2, 3-2-21)
    - 1. Open air terraces. (Ord. No. 02-21, § 2, 3-2-21)
    - 2. Exercise and fitness activities (both as principal and accessory uses). (Ord. No. 02-21, § 2, 3-2-21)
    - 3. Swimming pools and hot tubs are only permitted as amenities to hotel, motel, residential-type inn, or residential buildings. (Ord. No. 02-21, § 2, 3-2-21)
    - 4. Restroom facilities located above the maximum building height subject to approval pursuant to Section 4.3.4(J)(3). (Ord. No. 02-21, § 2, 3-2-21)
    - 5. Outdoor dining associated with a restaurant. (Ord. No. 02-21, § 2, 3-2-21)
    - 6. Retail display. (Ord. No. 02-21, § 2, 3-2-21)
    - 7. Rooftop gardens. (Ord. No. 02-21, § 2, 3-2-21)
    - 8. Urban agriculture. (Ord. No. 02-21, § 2, 3-2-21)
- (3) **General design standards for rooftop uses and terraces.** All rooftop uses and terraces shall meet the following: (Ord. No. 02-21, § 2, 3-2-21)
- (a) Features or structures shall not extend beyond the maximum building height, except pursuant to Section 4.3.4(J)(3), "Exceptions to zoning district height", or as specifically increased by the zoning district regulations. (Ord. No. 02-21, § 2, 3-2-21)
  - (b) Parking must be provided for principal uses, such as restaurant seating, located on rooftops. Parking is not required for amenities that are ancillary or accessory to the principal use, such as a swimming pool for a condominium. (Ord. No. 02-21, § 2, 3-2-21)
  - (c) Rooftop use areas greater than 100 square feet and located below the maximum building height shall landscape a minimum of ten percent of the rooftop use area. Rooftop use areas that are located at the maximum building height shall landscape a minimum of 20 percent. Landscaping shall consist of trees, shrubs, ground cover, and vines. (Ord. No. 02-21, § 2, 3-2-21)
  - (d) Rooftop use areas shall be hardscaped with materials that reduce the urban heat island effect such as cool or reflective roofs, patterned concrete, pavers, or wood decking. Open-

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air shade elements, such as awnings, trellises, and shade sails are allowed up to ten feet in height subject to the setback requirements of the zoning district. (Ord. No. 02-21, § 2, 3-2-21)

- (e) Railings and parapets shall be provided as follows: (Ord. No. 02-21, § 2, 3-2-21)
  - 1. The full perimeter of rooftop use area shall be surrounded by a parapet or railing at a minimum height of four feet that is consistent with the architectural style. (Ord. No. 02-21, § 2, 3-2-21)
  - 2. For non-residential rooftop uses adjoining or separated by an alley from OSSHAD, RO, or a residential zoning district, rooftop uses and terraces larger than 100 square feet located at any story or height shall provide privacy and mitigate potential impacts to the adjoining property through at least one of the following: (Ord. No. 02-21, § 2, 3-2-21)
    - a. a solid parapet or screening, greater than 75 percent opaque and minimum of six feet in height along the adjoining perimeter; or (Ord. No. 02-21, § 2, 3-2-21)
    - b. a setback of at least 20 feet from the property line(s) with a railing or parapet at least four feet in height along the adjoining perimeter. (Ord. No. 02-21, § 2, 3-2-21)
- (f) Restroom facilities allowed to be located above the maximum building height shall be setback an additional ten feet on all sides. (Ord. No. 02-21, § 2, 3-2-21)
- (g) All rooftop lighting shall comply with Section 4.6.8 and shall provide full cutoff luminaries to minimize spillover on adjacent properties. Light poles shall not extend beyond the maximum building height. (Ord. No. 02-21, § 2, 3-2-21)
- (h) Relief to the general design standards for rooftop uses and terraces is subject to review and action by the City Commission through the waiver process per Section 2.4.7(B). (Ord. No. 02-21, § 2, 3-2-21)

(S) **Telecommunication towers and antennas.** [Amd. Ord. 21-97 6/3/97]

- (1) **Purpose and intent.** The regulations and requirements of this section are intended to:
  - (a) Promote the health, safety and general welfare of the citizenry;
  - (b) Provide for the appropriate location and development of telecommunication towers and antennas within the City;
  - (c) Minimize adverse visual impacts of telecommunication towers and antennas through careful design, siting, and screening criteria;
  - (d) Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures; and
  - (e) Protect residential areas and land uses from potential adverse impacts of telecommunication towers and antennas by maximizing use of any new or existing telecommunication towers through shared use, i.e., co-location, to reduce the number of towers.
- (2) **Freestanding telecommunication towers.** Freestanding telecommunication towers are permitted as follows:

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- (a) Monopole towers having a maximum height of 64 feet are a permitted use in the following zoning districts:
1. Planned Commercial (PC)
  2. Planned Commerce Center (PCC)
  3. Mixed Industrial and Commercial District (MIC)
  4. Light Industrial (LI)
  5. Industrial (I)
  6. Open Space and Recreation (OSR)
  7. Community Facilities (CF)
- (b) Monopole towers having a maximum height greater than 64 feet may be permitted as a conditional use in the following zoning districts:
1. Planned Commerce Center (PCC)
  2. Mixed Industrial and Commercial District (MIC)
  3. Light Industrial (LI)
  4. Industrial (I)
  5. Open Space and Recreation (OSR) (on sites greater than 10 acres in size)
  6. Community Facilities (CF) (on sites greater than 10 acres in size)
- (c) Notwithstanding the above listed requirements, monopole towers greater than 64 feet in height are a permitted use when located on the public properties listed below. Towers that are to be located on these properties are not subject to the minimum separation requirement between towers. Towers shall be located so as to create the least potential visual impact on adjacent rights-of-way and residential areas.
1. Miller Park, 1905 S.W. 4th Avenue
  2. Delray Beach Municipal Golf Course, 2200 Highland Avenue
  3. Public Works Complex, 434 South Swinton Avenue
  4. South Central Regional Wastewater Treatment Facility, 1801 North Congress Avenue
  5. Lakeview Golf Course [Amd. Ord. 26-08 6/17/08]
  6. Barwick Park [Amd. Ord. 26-08 6/17/08]
- (d) Lattice and guyed towers may be permitted as a conditional use in the following zoning districts:
1. Community Facilities (CF) (on sites greater than 10 acres in size)
  2. Industrial (I)
- (e) Development standards and criteria.
1. Height.
    - a. Tower height shall not exceed 125 feet unless a waiver is granted pursuant to Subsection 4.3.3(S)(7)

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- b. Tower height is to be measured from the crown of the road of the nearest public right-of-way. The measurement of the tower height shall include any apparatus that extends above the tower structure, with the following exceptions:
    - (1) Lightning rods, safety lighting, and any other apparatus required by the Federal Aviation Administration (FAA) or the Federal Communications Commission (FCC) to ensure the safe operation of the facility.
    - (2) Whip antennas not exceeding 6 inches in diameter may extend 10 feet above the height of the tower structure.
2. Setbacks.
- a. Towers shall be located a minimum of 50 feet from any existing or proposed public street right-of-way line.
  - b. The minimum distance between a monopole tower and the nearest property line of a residential zoning district shall be equal to 200 percent of the height of the tower.
  - c. The minimum distance between a lattice or guyed tower and the nearest property line of a residential zoning district shall be equal to 400 percent of the height of the tower.
  - d. Monopole, lattice, or guyed telecommunication towers shall not be located within 1,000 feet of any existing monopole, lattice, or guyed telecommunication tower.
  - e. Equipment buildings and other structures associated with a telecommunication tower shall conform to the setbacks established for the underlying zoning district.
3. Buffering Requirements.
- a. An eight foot high fence or wall shall be constructed around the base of a telecommunication tower. The fence or wall shall be screened in accordance with LDR Section 4.6.5.
  - b. Accessory equipment and structures shall be screened in accordance with Section 4.6.16.
  - c. Landscaping may be required around anchors or supports, as well as around the perimeter of the site on which the tower is located, in order to enhance compatibility with adjacent properties.
4. High voltage and "no trespassing" warning signs.
- a. If high voltage is necessary for the operation of the telecommunication tower or any accessory structures, "HIGH VOLTAGE - DANGER" warning signs shall be permanently attached to the fence or wall and shall be spaced no more than 40 feet apart.
  - b. "NO TRESPASSING" warning signs shall be permanently attached to the fence or wall and shall be spaced no more than 40 feet apart.
  - c. The letters for the above described signs shall be at least six inches in height. The two warning signs may be combined into one sign. Warning

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signs shall be installed at least five feet above the finished grade of the fence.

- d. Where the warning signs could be obscured by landscaping, they may be installed on free standing poles, at least five feet above the finished grade.
  5. Signs and advertising. The use of any portion of a tower for signs or advertising purposes, including company name, banners, streamers, etc. is strictly prohibited.
  6. Color. Except where superseded by the requirements of other county, state, or federal regulatory agencies possessing jurisdiction over telecommunication towers, telecommunication towers shall be constructed in neutral colors, designed to blend into the surrounding environment, such as non-contrasting gray.
  7. Lighting. Artificial tower lighting shall be limited to mandatory safety lighting required by county, state, or federal regulatory agencies possessing jurisdiction over telecommunication towers. Security lighting around the base of a tower may be provided if such lighting conforms with the requirements of Section 4.6.8.
  8. Hazardous materials. Review and approval by the Fire Marshal is required where telecommunication towers are proposed within 200 feet of a proposed or existing principal use which includes the storage, distribution, or sale of volatile, flammable, explosive, or hazardous wastes such as LP gas, propane, gasoline, natural gas, and corrosive or dangerous chemicals, unless such materials are used for backup power purposes.
  9. Equipment storage. Mobile or immobile equipment not used in direct support of a tower facility shall not be stored or parked on the site of the telecommunication tower, unless repairs to the tower are being made.
- (f) Required information. All applications for telecommunication towers shall contain the following information:
1. Standard application items pursuant to 2.4.3(A).
  2. Site plan showing the location, dimensions, and elevations of the tower and accessory structures.
  3. An aerial photograph produced at a scale of not less than one inch equals 300 feet indicating all residential land uses and all existing telecommunication towers located within 1,500 feet of the proposed tower.
  4. Landscape plan pursuant to Section 4.6.16.
  5. A statement prepared by a professional registered engineer licensed to practice in the State of Florida, which through rational engineering analysis certifies the tower's compliance with applicable standards as set forth in the Standard Building Code, and any associated regulations; and describes the tower's capacity, including an example of the number and type of antennas it can accommodate. For all towers attached to existing structures, the statement shall include certification that the structure can support the load superimposed from the tower.

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Deleted number 6. and renumbered. [Amd. Ord. 37-03 10/7/03]

6. Written approval or a statement of no objection from other federal or state agencies that may regulate telecommunication tower siting, design, and construction. [Amd. Ord. 37-03 10/7/03]
7. Verification that the facility has been licensed by the Federal Communications Commission (FCC). [Amd. Ord. 37-03 10/7/03]
8. A certified statement that the construction and placement of the tower will not unnecessarily interfere with public safety communications and the usual and customary transmission or reception of radio and television service enjoyed by adjacent residential and nonresidential properties. A statement shall be prepared by a radio frequency engineer identifying any interference that may result from the proposed construction and placement. [Amd. Ord. 37-03 10/7/03]
9. A line of sight analysis shall be required to assess the tower's visual impact on residential areas. Such analysis shall include a visual representation of the tower on the site, and an illustration of its impact when viewed from at least three specific points within a 1,000 foot radius of the proposed tower location. The exact location of the points to be included in the analysis shall be coordinated with Planning and Zoning Department staff. [Amd. Ord. 37-03 10/7/03]

(g) Inspections.

1. The owner of a telecommunication tower shall have the tower periodically inspected for structural and electrical integrity by an engineer licensed to practice in the State of Florida, in accordance with the following schedule:
  - (a) Monopole: at least once every five years.
  - (b) Self-support lattice: at least once every two years.
  - (c) Guyed: at least once every two years.
2. Inspections may be required on a more frequent basis if there is reason to believe that the structural or electrical integrity of the tower is jeopardized.
3. Reports detailing the results of the inspections shall be submitted to the Chief Building Official. Based upon the results of an inspection, the Chief Building Official may require repair or removal of a telecommunication tower.
4. The City Commission may approve an alternative inspection program when the Chief Building Official has determined that the alternative program is sufficient to ensure the safety of the facility.
5. The City may conduct its own periodic inspections of a telecommunication tower to ensure its structural or electrical integrity.

(h) Existing towers.

1. Notwithstanding the above provisions of this section, whip and panel type telecommunication antennas may be placed on existing towers with sufficient loading capacity after approval by the Chief Building Official. Any other type of antenna requires a modification of the conditional use approval. The loading

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capacity of a tower shall be certified by an engineer licensed to practice in the State of Florida.

2. Notwithstanding the provisions of this section, towers in existence as of May 6, 1997, may be replaced with a tower of equal or less visual impact upon approval by the Planning and Zoning Director, provided that the following criteria are met:
  - a. The tower meets the minimum requirements of this section; or
  - b. The tower received conditional use approval prior to May 6, 1997.

Replacement of existing towers which do not meet the above specified criteria may be approved by the City Commission as a new conditional use.

(i) **Abandoned towers.**

1. A tower shall be considered abandoned if its use for telecommunication service has been discontinued for 180 consecutive days. All abandoned or unused telecommunication tower facilities shall be removed by the tower owner/operator within 90 days of abandonment.
2. Where a tower is abandoned but not removed within the specified time frame, the City may remove or demolish the tower and place a lien on the property following the procedures (but not the criteria) for demolition of unsafe buildings/structures contained in Article 7.8 of the LDRs, Unsafe Buildings or Structures. Telecommunication towers being utilized for other purposes, including but not limited to light standards and power poles, may be exempt from this provision.

(3) ***Antennas not located on telecommunication towers.***

- (a) Non stealth and stealth antennas mounted on rooftops, buildings, or other structures which constitute a principal use, are a permitted use in the following zoning districts, subject to the limitations and requirements contained herein:
  1. Medium Density Residential (RM) [Ord. No. 03-15 2/24/15]
  2. General Commercial (GC) [Ord. No. 03-15 2/24/15]
  3. Central Business District (CBD) [Ord. No. 03-15 2/24/15]
  4. Automotive Commercial (AC) [Ord. No. 03-15 2/24/15]
  5. Planned Commercial (PC) [Ord. No. 03-15 2/24/15]
  6. Resort /Tourism (RT) [Ord. No. 03-15 2/24/15]
  7. Planned Office Center (POC) [Ord. No. 03-15 2/24/15]
  8. Professional and Office District (POD) [Ord. No. 03-15 2/24/15]
  9. Planned Commerce Center (PCC) [Ord. No. 03-15 2/24/15]
  10. Mixed Industrial and Commercial (MIC) [Ord. No. 03-15 2/24/15]
  11. Industrial (I) [Ord. No. 03-15 2/24/15]
  12. Light Industrial (LI) [Ord. No. 03-15 2/24/15]
  13. Community Facilities (CF) [Ord. No. 03-15 2/24/15]

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14. Open Space and Recreation (OSR) [Ord. No. 03-15 2/24/15]

(b) Non-stealth antennas:

1. Shall only be permitted on buildings or structures which are at least 50 feet tall. Antennas may be placed on buildings or structures less than 50 feet tall in the CF or OSR zoning districts if public safety needs warrant the antenna.
2. Shall be placed in a manner so as to minimize the visual impact of the antenna on adjacent properties, and shall be of a color which matches the exterior of the building or structure upon which it is situated.
3. May not extend more than ten feet above the highest point of the roof or structure. Antennas may exceed this maximum height in the CF or OSR zoning districts if public safety needs warrant the antenna.
4. Shall be accompanied by a statement which demonstrates in a technical manner why a stealth antenna cannot be used for the particular application.
5. Require approval by the Site Plan Review and Appearance Board.

(c) Stealth antennas:

1. May extend up to 20 feet above the highest point of the roof or structure. If a greater height is necessary, the antenna must be approved by the Site Plan Appearance and Review Board.
2. Requires approval by the Director of Planning and Zoning to ensure that the antenna is consistent with the definition of a stealth facility.

(d) Requirements and standards:

1. Each application shall contain a rendering or photograph of the antenna including, but not limited to, colors and screening devices.
2. No commercial advertising shall be allowed on an antenna or on the screening devices or elements.
3. The antenna must be in compliance with FAA requirements. No signals, lights, or illumination shall be permitted on an antenna, unless required by the FCC or FAA.
4. Any related unmanned equipment building shall not contain more than 750 square feet of gross floor area or be more than 12 feet in height; and
5. If the equipment building is located on the roof of the building, the area of the equipment building shall not occupy more than 25 percent of the roof area.
6. An antenna proposed for location on a structure or site that is listed on the local or national register of historic places, or is located within a designated historic district, may be denied if the antenna creates an adverse impact on the historic character of the structure, site, or district.

(4) **Co-Location.**

- (a) In order to minimize adverse visual impacts associated with a proliferation of towers, co-location of communication antennas by more than one provider on existing or new telecommunication towers shall take precedence over the construction of new single use telecommunication towers. An application for a new tower that is greater than 64 feet in height shall not be approved unless it can be demonstrated by the applicant that there is a

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need for the new tower which cannot be met by placing the antenna on an existing tower. Accordingly, the following requirements apply to each application for a new telecommunication tower that is greater than 64 feet in height.

1. All new telecommunication towers shall be constructed so as to have the capacity to permit multiple uses. Monopole towers shall be able to accommodate a minimum of two users, and lattice or guyed towers shall be able to accommodate a minimum of three users.
2. All applications for new telecommunication towers shall include a written analysis of the feasibility of sharing any existing telecommunication tower located within a half-mile radius of the proposed tower site. The analysis shall consider the following factors:
  - a. Availability of existing towers for co-location.
  - b. Structural capacity of existing tower or towers.
  - c. Geographic service area requirements.
  - d. Radio frequency interference.
  - e. Mechanical or electrical incompatibility.
  - f. Restrictions or limitations of the Federal Communications Commission that would preclude the shared use of the tower.
  - g. Any other information that would demonstrate the need for the new tower.
3. An existing telecommunication tower that is determined to be inappropriate for sharing shall be assumed to be inappropriate for sharing the same types of facilities in the future. Such towers will not need to be evaluated in the future regarding sharing with the same type of facility for which it has been determined to be inappropriate. The Planning and Zoning Department shall retain a list of such towers, and will provide a copy of the list to all potential applicants. The City may require additional sharing feasibility evaluations if warranted by changes in technology.
4. A requirement to allow co-location will be a condition of approval for all new towers. This requirement will be deemed to have been met if the facility owner shows that it has executed a joint use agreement with at least one other unaffiliated entity for shared use, and agrees to offer the same contract to others. In other cases, the facility owner must provide a statement of intent to offer space on the tower on fair, reasonable, nondiscriminatory terms, at fair market value, and to negotiate leases promptly and without undue delay. A condition of any permit for a new telecommunication tower shall be that the permit shall be terminated, and the facility removed, if the City finds that the facility owner is not complying with its obligations under this section.
5. For any telecommunication tower approved for shared use, the owner of the tower shall send a written notice to all potential users of the new tower, informing them of the opportunity for co-location, and including information on the tower's location and load capacity. Copies of the notice letters shall be provided to the City at the time that the application is filed. The list of potential users shall be provided by the Planning and Zoning Department.

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6. The City may deny an application if an available co-location is feasible and the application is not for such co-location.
  7. The requirement for a new tower to provide for co-location, and the applicable provisions of this subsection, may be waived pursuant to the requirements and findings stipulated in subsection 4.3.3(S)(7).
- (5) ***Use of city-owned property for telecommunication facilities.***
- (a) No municipally-owned property may be used without a lease agreement with the City. The City shall authorize the application and use of City property after the applicant executes a lease agreement that is acceptable to the City. The City shall have no obligation whatsoever to execute such lease even if the applicant can meet the criteria set forth in this section.
  - (b) The City may, as appropriate, to protect its property and the public interest, establish additional requirements beyond the minimum requirements of this section for facilities located on municipally-owned property.
  - (c) The City may issue letters of interest for the purposes of leasing sites on designated City property for the construction and installation of personal wireless service facilities. The City will encourage the installation of facilities which have a minimal impact on the surrounding areas and are consistent with the development of the public property on which the facility is located.
- (6) ***Review and approval process.***
- (a) The City shall process all applications for telecommunication towers and antennas in a timely manner and in accordance with established procedures. [Amd. Ord. 37-03 10/7/03]
    1. Application for new tower permits will be processed within 90 business days of receipt of a properly completed application. [Amd. Ord. 37-03 10/7/03]
    2. Applications for co-location permits will be processed within 45 business days of receipt of a properly completed application. [Amd. Ord. 37-03 10/7/03]
    3. The city will notify permit applicants within 20 business days after the date of submission of an application whether the application is for administrative purposes only, properly completed and properly submitted. [Amd. Ord. 37-03 10/7/03]
  - (b) A waiver of the time frames set forth above must be voluntarily agreed to by the applicant and the City except in the case of a declared local, state or federal emergency that directly affects the administration of all permitting activities of the City. [Amd. Ord. 37-03 10/7/03]
  - (c) The reason for the rejection or denial of any application filed in accordance with the provisions of this section shall be set forth in writing within the above specified time frames. [Amd. Ord. 37-03 10/7/03]
  - (d) All conditional uses must be approved pursuant to the provisions of Section 2.4.5(E). In addition to the requirements of that section, the following finding must be made in connection with a conditional use approval for a new communication tower: [Amd. Ord. 37-03 10/7/03]
    1. That the visual impact of the tower has been minimized to the greatest extent possible through careful design, siting, and screening. [Amd. Ord. 37-03 10/7/03]
- (7) ***Waivers.***

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- (a) The City Commission may waive the requirements of this section pursuant to the authority granted in Section 2.4.7(B). In addition to the requirements and standards specified in that section, the following findings which are applicable to the nature of the waiver must be made:

1. **Waiver of locational restrictions:**

**Finding:** That approval of the waiver will allow for the construction of a facility at a location that is more appropriate than sites which comply with the zoning and separation requirements, based upon factors such as its distance from residential uses, existence of permanent screening or buffers, and location within a large-scale non-residential area.

2. **Waiver of height restrictions:** At least one of the following findings must be made:

- a. That a height greater than 125 feet is necessary to accommodate co-location by another provider, and it has been illustrated through a line of sight analysis that the additional height will not significantly impact residential neighborhoods. Waivers granted pursuant to this provision shall not allow heights in excess of 150 feet.
- b. That a height greater than 125 feet is required to meet public safety needs.

3. **Waiver of Co-Location Requirements:**

**Finding:** That it has been specifically demonstrated through data and analysis that co-location is not feasible because of factors such as site constraints, radio frequency (RF) interference, geographic service area incompatibilities, mechanical or electric incompatibilities, or similar circumstances.

(T) **Family day care home:** [Amd. Ord. 25-10 10/19/10]

- (1) Shall only be as an accessory use in a private residence and may function as either for or not for profit
- (2) Is limited to no more than six children at any one time but may be conducted 24 hours a day. [Amd. Ord. 25-10 10/19/10]
- (3) The person furnishing such service shall have a current, valid permit from Palm Beach County for operation of a family day care home, as required by Article II of Chapter 39, Palm Beach County Code; and a City of Delray Beach occupational license as a "Family Day Care Home". [Amd. Ord. 25-10 10/19/10]
- (4) A Family Day Care Home which is registered with the State Department of Health and Rehabilitative Services (HRS) are specifically exempt from having to obtain any special exemption or use permit or pay any special fee in excess of \$50 to operate within the City (F.S. 166.0445). [Amd. Ord. 25-10 10/19/10]
- (5) Baby-sitting services provided by an individual at the home of the parents or legal guardians are deemed to be exempt from these provisions.

(TT) **Large family child care home.** [New Section Ord. 25-10 10/19/10]

- (1) **Requirements:** Two full-time child care personnel must be on the premises during the hours of operation.
  - (a) One of the full-time child care personnel must be the owner or occupant of the residence.

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- (b) Such use must first have operated as a licensed family day care home for two years, with an operator who has had a child development associate credential or its equivalent for one year.
  - (c) A large family child care home shall be allowed to provide care for one of the following groups of children which shall include those children under 13 years of age who are related to the caregiver:
    - (i) A maximum of eight children from birth to 24 months of age, or;
    - (ii) A maximum of 12 children with no more than four children under 24 months of age.
  - (2) **Floor area:** Facilities shall contain a minimum floor area of 35 square feet per child, exclusive of space devoted to bathrooms, halls, kitchen, offices, and storage.
  - (3) **Outdoor area:** There shall be a minimum area of 75 square feet of outdoor play area per child. The play area shall be located on the same lot as the principal use and shall not be located in the front yard setback or adjacent to any outdoor storage area. The play area shall be surrounded by a six-foot high fence or wall.
  - (4) **Loading area:** A pick-up and drop-off area for children shall be provided in a convenient area adjacent to the building and shall provide clear ingress and egress to the building.
  - (5) **Other regulations:** All child care facilities shall comply with state and county regulations.
  - (U) **Live aboard vessels:** Live aboard vessels may be located only at full service marinas which used their facilities for such use as of September 1, 1985. In no event shall dockage at real property improved with a residential dwelling unit or residential dwelling units qualify as a full-service marina. [173.182(K)]
  - (V) **Uses involving alcoholic beverages:** [Amd. Ord. 42-03 11/18/03]
    - (1) **Defined:** For this subsection, alcoholic beverage is defined as:
      - \* Distilled spirits and all beverages containing one-half of one percent or more alcohol by volume. [Amd. Ord. 42-03 11/18/03]
    - (2) **Prohibitions by frequency:** The sale of alcoholic beverages for on-site consumption shall be allowed as a principal use within standalone bars and as an accessory use in chartered private clubs and golf courses with the restriction that: [Amd. Ord. 42-03 11/18/03]
      - (a) Not more than one standalone bar shall be located within any one block, nor within 750 feet of another standalone bar measured from lot line to lot line in a straight line. [Amd. Ord. 42-03 11/18/03]
      - (b) The above restriction does not apply to a duly licensed grocery store which sells beer and wine in packages for off-site consumption nor does it apply to a restaurant which holds a special restaurant license issued by the Department of Business Regulations of the State Division of Alcoholic Beverages and Tobacco. [Amd. Ord. 42-03 11/18/03]
      - (c) To be allowed to begin operating a business as a standalone bar, the following rules shall apply: [Amd. Ord. 22-05 4/19/05]
        - 1. A written request to establish a standalone bar shall be submitted to the Planning and Zoning Department. Attached to the written request shall be a copy of a valid 4COP License, evidence of an executed lease to operate the business at the proposed location and a copy of an approved site plan for a restaurant or bar use (hereinafter referred to as the submission). The submission shall be date and time stamped by the Planning and Zoning

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Department. The submission shall be valid for a period of six months. [Amd. Ord. 22-05 4/19/05]

2. If locational requirements allow for a standalone bar to be established, a person or entity that has filed a submission as set forth above at the earliest time and date will be notified that the use may be established. If the stand alone bar use is not legally established pursuant to LDR Section 2.4.4(D) within 60 days after notification, the person or entity who filed a submission next in time and date shall have an opportunity to establish a standalone bar use. That person or entity and subsequent persons or entities that have a submission on file must also comply with the 60-day establishment requirement. Persons or entities that fail to establish the stand alone bar use in accordance with LDR Section 2.4.4(D) within the 60-day period shall not have any further priority to establish the stand alone bar use and the submission shall be deemed void unless no other persons or entities have filed a submission wherein a longer time to establish the use may be permitted upon request. [Amd. Ord. 22-05 4/19/05]
3. If for any reason the City is unable to determine who was first in time or unable to determine if the use was legally established and operational within the time permitted, the Planning and Zoning Board shall review all valid submissions on file regardless of time or date of the submission or establishment of the use, based on the required findings of LDR Section 2.4.5(E) and make a recommendation to the City Commission. The City Commission will then determine which standalone bar use is the most compatible with surrounding uses, based on the following: [Amd. Ord. 22-05 4/19/05]
  - a. Compliance with code requirements, [Amd. Ord. 22-05 4/19/05]
  - b. site's physical appearance, [Amd. Ord. 22-05 4/19/05]
  - c. location, [Amd. Ord. 22-05 4/19/05]
  - d. consistency with the Comprehensive Plan, and [Amd. Ord. 22-05 4/19/05]
  - e. capacity of infrastructure to accommodate the proposed use, [Amd. Ord. 22-05 4/19/05]
  - f. whether the stand alone bar will have a deleterious effect on adjacent businesses. [Amd. Ord. 22-05 4/19/05]

The standalone bar use deemed most compatible will then have the right to establish a standalone bar use as a permitted use within 60 days of the decision of the City Commission. [Amd. Ord. 22-05 4/19/05]

4. No assignment of any submission or rights obtained as a result of a submission to establish a standalone bar use under this section shall be permitted, provided, however, an established standalone bar use may continue to exist at the same location without participating in the process outlined in Subsection (c) for as long as the use is operational. If the stand alone bar use is not operational for a period of 180 days or the business location has been occupied by an intervening use, then the process described in subsection (c) herein shall apply. [Amd. Ord. 22-05 4/19/05]
5. New letters with attachments set forth above may be submitted once every six months. [Amd. Ord. 22-05 4/19/05]

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- (3) **Prohibition by proximity (schools and churches):** Alcoholic beverages shall not be sold at any establishment which is located within 300 feet of an established school or church.
- (a) With respect to schools, the 300 feet distance shall be measured from the nearest point of the building of the place of business, location, or establishment to the nearest point of the school grounds in use as a part of the school facilities.
  - (b) With respect to churches, the 300 feet distance shall be measured from the nearest point of the building of place of business, location, or establishment to the nearest point of the church building or buildings.
  - (c) The 300 feet distance shall be measured in a straight line.
  - (d) The above restriction does not apply to a duly licensed grocery store which sells beer and wine in packages for off-site consumption nor does it apply to a restaurant which holds a special restaurant license issued by the Department of Business Regulations of the State Division of Alcoholic Beverages and Tobacco.
- (4) **Bottle clubs prohibited:** Bottle Clubs as defined in Appendix A are prohibited in all zone districts. [Amd. Ord. 42-03 11/18/03]
- (VV) 24-Hour or Late Night Businesses: [Amd. Ord. 41-01 8/7/01]
- (1) **Purpose and intent:** The purpose and intent of the regulations of this section are: [Amd. Ord. 41-01 8/7/01]
- (a) To promote the health, safety and general welfare of the citizenry; [Amd. Ord. 41-01 8/7/01]
  - (b) To provide conditions upon the use of 24-Hour or late night businesses in order to minimize impacts upon residentially-zoned properties from such uses. [Amd. Ord. 41-01 8/7/01]
- (2) **Requirements:** Unless otherwise specified, the following regulations shall apply to 24-Hour or late night businesses: [Amd. Ord. 41-01 8/7/01]
- (a) **Conditional use:** Any 24-Hour or late night business located or proposed to be located within a 300-foot straight line route from any residentially-zoned property shall obtain a conditional use permit from the City for the operation of such use. The distance shall be measured from the nearest point of the property on which the 24-Hour or late night business is or will be located to the nearest point of a residentially-zoned property. [Amd. Ord. 41-01 8/7/01]
  - (b) **Conditions:** In addition to complying with Section 2.4.5(E) of the Land Development Regulations, all other applicable regulations, and with any conditions imposed through the conditional use process, the following conditions shall apply to all 24-Hour or late night businesses which meet the requirements of subsection (2)(a): [Amd. Ord. 41-01 8/7/01]
    - 1. **Security plan:** A 24-Hour or late night business shall submit a security plan detailing the manner in which the business intends to address the security of the establishment, its patrons, employees and nearby residents. A convenience business as defined in Section 812.171, Florida Statutes (2000), as may be amended from time to time, is exempted from filing a security plan with the City pursuant to this subsection. However, convenience businesses shall comply with all applicable provisions of Sections 812.101-812.175, Florida Statutes (2000), as may be amended from time to time. A security plan shall include, at a minimum, a detailed description of the following: [Amd. Ord. 41-01 8/7/01]

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- a. external lighting; and, [Amd. Ord. 41-01 8/7/01]
  - b. other external security measures, such as security cameras or other similar measures; and, [Amd. Ord. 41-01 8/7/01]
  - c. internal security measures, such as drop safes, silent alarms, security personnel or other similar measures. [Amd. Ord. 41-01 8/7/01]
2. **Buffering:** A 24-Hour or late night business shall provide adequate buffering to minimize the effects of noise and to act as a visual buffer to the property from nearby residential districts. [Amd. Ord. 41-01 8/7/01]
- (c) **Findings:** In addition to any findings required by Section 2.4.5(E) of the Land Development Regulations, and any other required findings, the following specific findings shall be made in order for any 24-Hour or late night business to be approved for a conditional use: [Amd. Ord. 41-01 8/7/01]
1. That the use will be consistent with Housing Element Policy HOU 1.1.12 of the adopted Comprehensive Plan of the City of Delray Beach. [Amd. Ord. 41-01 8/7/01] (Ord. No. 23-20, § 16, 9-10-20)
  2. That the submitted security plan contains measures adequate to reasonably protect the safety of patrons, employees and nearby residents. [Amd. Ord. 41-01 8/7/01]
  3. That the amount and type of proposed buffering is adequate to minimize the effects of noise impacts upon surrounding uses and nearby residential properties and to act as a visual buffer to the property from surrounding uses and nearby residential properties. [Amd. Ord. 41-01 8/7/01]
- (3) **Applicability.** [Amd. Ord. 41-01 8/7/01]
- (a) The provisions of this section shall not apply to 24-Hour or late night businesses which:
1. are more than a 300-foot straight line route from any residentially zoned property as determined by the provisions of subsection (2)(a); or, [Amd. Ord. 41-01 8/7/01]
  2. are in operation at the time of the adoption of this ordinance; or, [Amd. Ord. 41-01 8/7/01]
  3. are under construction pursuant to a validly issued building permit at the time of the adoption of this ordinance. [Amd. Ord. 41-01 8/7/01]
- (b) Any 24-Hour or late night business which is in existence at the time of the adoption of this ordinance, which meets the requirements of subsection (2)(a), and which changes its use from one type of 24-Hour or late night business to another type of 24-Hour or late night business (e.g., restaurant to nightclub), shall be required to obtain a conditional use approval pursuant to the provisions of this section. [Amd. Ord. 41-01 8/7/01]
- (W) **Domestic animal services.** Facilities providing domestic animal services shall obtain a permit issued by Palm Beach County Animal Care and Control Division prior to the establishment of the use and must comply with the following: (Ord. No. 17-21, § 2, 10-19-21)
- (1) Hours of operation are limited to 7:00 a.m. to 8:00 p.m., except for veterinary clinics providing emergency services. (Ord. No. 17-21, § 2, 10-19-21)
  - (2) Domestic animal service facilities shall be fully enclosed with solid core doors and walls sufficiently insulated to minimize noise and odor detection from outside the facility. If frequent,

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habitual, or long continued animal sounds are plainly audible from adjacent properties, the building is not considered sufficiently insulated. (Ord. No. 17-21, § 2, 10-19-21)

- (3) Outside activities and services are limited to drop-off and necessary outdoor walks of animals in direct control of a person by means of a leash or cord. Pursuant to Section 4.6.6, any other outside use requires approval through the conditional use process specifically determining the outside aspects of the use are appropriate. (Ord. No. 17-21, § 2, 10-19-21)
- (4) Pet services that are limited as an accessory use by the zoning district must be accessory to an approved domestic animal service. (Ord. No. 17-21, § 2, 10-19-21)
- (5) On-site disposal of carcasses is prohibited. (Ord. No. 17-21, § 2, 10-19-21)
- (6) *Parking Requirements.* The minimum number of parking spaces required shall be determined by the gross floor area. Facilities offering a mix of domestic animal services shall provide parking spaces based on the cumulative use designation of each area. (Ord. No. 17-21, § 2, 10-19-21)
  - (a) Pet services and veterinary clinics shall provide 4.5 spaces per 1,000 square feet. (Ord. No. 17-21, § 2, 10-19-21)
  - (b) Pet hotels and animal shelters shall provide one space per 300 square feet. (Ord. No. 17-21, § 2, 10-19-21)
  - (c) Common areas within a facility offering a mix of domestic animal services shall calculate parking spaces based on the use requiring the least amount of parking spaces. (Ord. No. 17-21, § 2, 10-19-21)
- (7) *Overnight boarding.* Only veterinary clinics, pet hotels, and animal shelters may offer overnight boarding services subject to the following: (Ord. No. 17-21, § 2, 10-19-21)
  - (a) An on-site attendant shall be present at all times during boarding services. (Ord. No. 17-21, § 2, 10-19-21)
  - (b) Pet hotels and animal shelters shall not be located within a mixed-use building with residential uses. (Ord. No. 17-21, § 2, 10-19-21)
  - (c) *Emergency Preparedness Plan.* Facilities approved for and offering overnight boarding services shall provide an Emergency Preparedness Plan to ensure continued humane care conditions are provided for the animals and their attendants, in case of an emergency, power outage, natural disaster, or other similar event. The plan shall include the following: (Ord. No. 17-21, § 2, 10-19-21)
    1. Description of how the animals in the facility will be accommodated if the main power source is out for more than 12 hours. (Ord. No. 17-21, § 2, 10-19-21)
    2. An auxiliary power generator, either portable or permanent, is required, and shall be designed and equipped to power, at a minimum, the surgery and boarding rooms, for a period of not less than 24 hours. (Ord. No. 17-21, § 2, 10-19-21)
      - a. Generators shall not be dependent on a municipal water supply for cooling purposes. (Ord. No. 17-21, § 2, 10-19-21)
      - b. Both portable and permanent generators shall be tested on a quarterly basis and a test log shall be maintained for inspection by the City of Delray Beach, upon request. (Ord. No. 17-21, § 2, 10-19-21)
    3. A minimum of one attendant on-site must be able to operate the generators. (Ord. No. 17-21, § 2, 10-19-21)

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4. Veterinary clinics, pet hotels and animal shelters that provide overnight boarding services and were legally established prior to the adoption of Ordinance No. 17-21 shall provide the facility's emergency preparedness plan within two years of the effective date. (Ord. No. 17-21, § 2, 10-19-21)
  5. Businesses that do not provide an on-site or portable auxiliary generator may request relief through the waiver process pursuant to Section 2.4.7(B). (Ord. No. 17-21, § 2, 10-19-21)
- (8) **Outside use areas.** Domestic animal service facilities may be approved for outside use areas pursuant to Section 4.6.6, subject to the following: (Ord. No. 17-21, § 2, 10-19-21)
- (a) Outdoor cages, crates, kennels, or other enclosures intended for animal habitation, and not for exercise or training purposes, are prohibited. (Ord. No. 17-21, § 2, 10-19-21)
  - (b) A solid finished masonry wall or privacy fence six feet in height shall be provided on all sides of outside use areas designated for domestic animal services. (Ord. No. 17-21, § 2, 10-19-21)
  - (c) Pervious outside use areas intended for domestic animal services may be counted towards open space requirements. (Ord. No. 17-21, § 2, 10-19-21)
  - (d) Outside activities are limited to 7:00 a.m. to 8:00 p.m., except for necessary outdoor walks of one animal at a time in direct control of a person by means of a leash or similar device. (Ord. No. 17-21, § 2, 10-19-21)
  - (e) Separation requirements: (Ord. No. 17-21, § 2, 10-19-21)
    1. Properties with outside use areas intended for domestic animal services shall not be located within 300 feet of residentially zoned properties or other properties with outside use areas intended for domestic animal services as measured from lot line to lot line in a straight line. (Ord. No. 17-21, § 2, 10-19-21)
    2. Outside use areas are subject to required minimum building setbacks, which may be increased as part of the conditional use approval. (Ord. No. 17-21, § 2, 10-19-21)
- (X) **Residential-type inns:** Residential-type inns shall be subject to the following provisions, limitations, and restrictions: [Amd. Ord. 9-98 2/17/98]
- (1) The use must be located with frontage on, or access from, at least one arterial or collector street as delineated on the City's Transportation Element;
  - (2) The use must be located in proximity to office, industrial, or commercial uses; [Amd. Ord. 9-98 2/17/98]
  - (3) The minimum floor area per suite shall be 450 square feet;
  - (4) Accessory uses may include recreational facilities (i.e. swimming pool, whirlpool, jacuzzi, steam room, tennis courts), meeting rooms, complimentary room service, and other non-residential uses as permitted within the respective zoning district. [Amd. Ord. 9-98 2/17/98]
  - (5) Parking shall be provided pursuant to Section 4.6.9(C)(7)(e). [Amd. Ord. 9-98 2/17/98]
- (Y) **Bed and breakfast inns.** In addition to the requirements of the underlying zone district, Section 4.5.1, Historic Preservation Districts and Sites, other applicable general regulations, parking regulations, and special conditions imposed through the conditional use process, the following requirements shall apply to Bed and Breakfast Inns: [Entire Section Revised Ord. 11-10 7/20/10]

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- (1) **Location.** Bed and Breakfast Inns shall only be established as follows:
    - (a) Within designated historic buildings, which are located on Individually Designated sites as listed in Section 4.5.1(K) or on those properties classified as "Contributing" within a designated historic district, as listed in Section 4.5.1(L); and which are a permitted or conditional use within the zoning district.
    - (b) Not within 300 feet of another Bed and Breakfast Inn, measured lot line to lot line in a straight line, when located within the Medium-Density, Multi-Family (RM) district.
  - (2) **Parking.** Parking for Bed and Breakfast Inns shall be provided as follows:
    - (a) Parking shall comply with the requirements in Section 4.6.9.
    - (b) One parking space shall be provided for the manager/owner and one parking space shall be provided for each guest room.
    - (c) All required parking shall be provided in a manner which will not detract from the character of either the neighborhood or the historic property. No designated parking spaces may be located within the front or side-street setback areas
    - (d) Circular driveways, and/or tandem parking spaces with a maximum two car depth are permitted
    - (e) No parking may be provided via mechanical lift.
  - (3) **Common area.** Within each Bed and Breakfast Inn, a common area must be provided for a central dining area and for, at least, one reading/discussion/living room.
  - (4) **Guest rooms.**
    - (a) There shall be no cooking facilities or food storage facilities in any guest room. Guest rooms do not have to contain bathroom facilities.
    - (b) The number of bedrooms provided for guest use shall be as existed when the structure was originally constructed with subsequent additions, unless modifications are necessary to comply with Building, Fire, and/or Health codes. An existing guest cottage, subject to the requirements of Section 4.3.3(Q) may be used as the primary residence of the Property Owner. Historically designated guest cottages may also be used for paying guests.
  - (5) **Meals.** Breakfast shall be the only meal provided for paying guests who are using the facility overnight. The breakfast meal shall not be served after 11:00 a.m.
  - (6) **Maximum stay.** The maximum stay for each guest shall be not more than 14 days during any 30-day period. A guest book which accurately identifies all customers for each night's lodging shall be maintained by the owner and/or manager.
  - (7) **Employees and personnel.** No more than one nonresident may be employed in the management and administration of the facilities on-site. This restriction excludes maintenance and cleaning personnel.
  - (8) **Property owner.** The owner of the Bed and Breakfast Inn property must reside on the property.
  - (9) **Events.** Events and/or private parties shall be limited to the property owner and guests staying at the Bed and Breakfast Inn.
  - (Z) **Resource recovery or waste management facilities.**
    - (1) **Rule.** Pursuant to the Palm Beach County Solid Waste Act (Chapter 75-473, Laws of Florida, as amended) requires that "No person shall operate, maintain, construct, expand, or modify any

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resource recovery and/or waste management facility without first having applied for and received a valid operating permit from the Solid Waste Authority". Examples of facilities which require such permitting include: landfills, transfer stations, mulching/composting sites, recycling facilities, biohazardous waste treatment facilities, and any facility that stores, processes, treats, incinerates or disposes of solid waste.

- (2) **Notification required.** Accordingly, as a part of any application, at any step of the land use and/or development approval process, which involves the aforementioned facilities, it shall be required that a letter from the Solid Waste Authority which states its knowledge of the proposed facility shall accompany said application.
- (3) **Locations.** Such facilities shall be allowed only upon land which is zoned Community Facilities (CF) with an underlying Future Land Use Map designation of Community Facilities. Such facilities shall not be located within Wellfield Protection Zones 1, 2, or 3. [Amd. Ord. 31-97 9/9/97]

(ZB) **Tattooing and tattoo establishments.** (Ord. No. 33-16, § 1, 11-15-16)

Purpose: It is the intent of this section to permit Tattooing and Tattoo Establishments, which are expressive activities protected by the U.S. Constitution, pursuant to reasonable time, place, and manner restrictions which are narrowly tailored to protect: the unique character and aesthetic of the City of Delray Beach's award-winning, family-friendly, historic downtown and neighborhoods and renowned beach resort community; property interests and rights; the public health, safety, and welfare; and the administration of local laws.(Ord. No. 33-16, § 1, 11-15-16)

- (1) Tattoo means a mark or design made on or under the skin of a human being by a process of piercing and ingraining a pigment, dye, or ink in the skin.(Ord. No. 33-16, § 1, 11-15-16)
- (2) Tattooing Establishment is any establishment or business engaged in tattooing excluding micropigmentation or permanent cosmetic makeup which is considered a personal service typically provided at a medical office, beauty salon or day spas.(Ord. No. 33-16, § 1, 11-15-16)
- (3) Hours of operation. Tattoo establishments are limited to operating between 8:00 a.m. to 10:00 p.m.(Ord. No. 33-16, § 1, 11-15-16)
- (4) Visibility of tattooing. Tattooing shall not be visible from a public right-of-way public land, public open space or any private property open to the public, including common areas.(Ord. No. 33-16, § 1, 11-15-16)
- (5) Accessory use regulations.(Ord. No. 33-16, § 1, 11-15-16)
  - (a) Tattooing shall be permitted as an accessory use within Medical, Professional, and Business Offices pursuant to all other provisions of the LDRs, except where expressly prohibited.(Ord. No. 33-16, § 1, 11-15-16)
  - (b) Where a tattoo establishment would otherwise be a permitted principal use but for the prohibition set forth by Section 4.3.3(ZB)(4), tattooing shall be permitted as an accessory use pursuant to all other provisions of the LDRs. For example, tattooing, even as an accessory use shall not occupy "Required Retail Frontage" within any of the CBD Sub-districts.(Ord. No. 33-16, § 1, 11-15-16)
  - (c) When permitted as an accessory use, tattooing shall be limited as follows:(Ord. No. 33-16, § 1, 11-15-16)
    - (i) Twenty percent or less of GFA of the overall tenant space of the principal use.(Ord. No. 33-16, § 1, 11-15-16)

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- (ii) No exterior signage specifically for tattooing or related activities.(Ord. No. 33-16, § 1, 11-15-16)
  - (6) Prohibition by frequency. Whether allowed as a principal use, tattoo establishments and/or tattooing shall be located no more than one per block or within 750 feet of another such use, as measured from lot line to lot line in a straight line.(Ord. No. 33-16, § 1, 11-15-16)
  - (7) Prohibition by proximity. Tattoo establishments shall not be located within 300 feet of an established school or places of worship.(Ord. No. 33-16, § 1, 11-15-16)
    - (a) With respect to schools, the 300 feet distance shall be measured from the nearest point of the building of the place of business, location, or establishment to the nearest point of the school grounds in use as a part of the school facilities.(Ord. No. 33-16, § 1, 11-15-16)
    - (b) With respect to churches, the 300 feet distance shall be measured from the nearest point of the building of place of business, location, or establishment to the nearest point of the church building or buildings.(Ord. No. 33-16, § 1, 11-15-16)
    - (c) The 300 feet distance shall be measured in a straight line.(Ord. No. 33-16, § 1, 11-15-16)
- (ZZ) **Permanently installed generators:** The following standards shall apply to all permanently installed generators: [Section Added by Ord. 28-06 5/16/06]
- (1) Generators are prohibited in the front yard and side street setbacks.
  - (2) Generators and accessory above ground facilities, such as fuel tanks, are to be screened from view from adjacent properties or rights-of-way by a wall or hedge equal to the height of the generator at the time of installation.
  - (3) Generators may be operated for exercising purposes one time per week, excluding Sundays, for a period not exceeding 30 minutes between the hours of 10:00 a.m. to 6:00 p.m.
  - (4) A maximum of one generator is allowed per single family, duplex, or townhouse residential dwelling unit except for multiple family, which is allowed one generator per multiple family structure. Non-residential uses are allowed one generator per tenant.
  - (5) Generators are setback a minimum of three feet from the side interior property line in the R-1-A, R-1-AB and R-1-AAB Single Family Residential zoning districts, conventionally sited homes in the Planned Residential District, Mobile Home District, and Old School Square Historic Arts District and five feet from the side interior property line (development perimeter for townhouses) in all other zoning districts.
  - (6) Generators are setback a minimum of five feet from the rear property line in all zoning districts.

**(ZZZ) Transient residential use:** The entire dwelling unit or any part thereof, which is located in Single Family, Rural Residential, or Planned Residential Development Zoning Districts and is operated or used in such a way that any part of the dwelling unit turns over occupancy more often than three times in any one year shall be presumed to be a Transient Residential Use and therefore prohibited. An entire dwelling unit or any part thereof, which is located in Low Density Residential (RL) or Medium Density Residential (RM) Zoning Districts and is operated or used in such a way that any part of the entire dwelling unit turns over occupancy more often than six times in any one year shall be presumed to be a Transient Residential Use and therefore prohibited. [Amd. Ord. 40-12 11/6/12]; [Amd. Ord. 03-12 2/21/12]; [Section Added by Ord. 29-09 7/7/09]

[Deleted (1) and renumbered Ord. 03-12 2/21/12]

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(1) **Exceptions/exemptions.**

- (a) Existing transient residential uses with a turnover more often than three times per year but not exceeding six times per year in single-family, rural residential, and planned residential development zoning districts may continue until 12 months after the effective date of ordinance 03-12. [Amd. Ord. 40-12 11/6/12]; [Amd. Ord. 03-12 2/21/12]
- (b) The leasing, renting, licensing, subleasing or otherwise allowing in any manner or form the use of a single-family dwelling unit for a Community Residence is exempt. (Ord. No. 25-17, § 7, 7-18-17)
- (c) The real property owners of the dwelling unit and their family are exempt regardless of how much time the owners and family spend at the dwelling unit on a yearly basis. [Amd. Ord. 03-12 2/21/12]

(2) **Waiver for undue economic hardship:** In all instances where there is a claim of undue economic hardship, the property owner may be granted a waiver from Section 4.3.3(ZZZ) after submission of waiver request to the City's Community Improvement Director or his/her designee. [Amd. Ord. 40-12 11/6/12]

- (a) All waivers requests shall include the following documentation: [Amd. Ord. 40-12 11/6/12]
  - 1. The amount paid for the property, the date of purchase, and the party from whom purchased;
  - 2. The assessed value of the land and improvements thereon, according to the two most recent assessments;
  - 3. Real estate taxes for the previous two years;
  - 4. Annual debt service or mortgage payments, if any, for the previous two years;
  - 5. All appraisals, if any, obtained within the previous two years by the owner or applicant in connection with the purchase, financing, or ownership of the property;
  - 6. Any listing of the property for sale or rent, price asked, and offers received, if any;
  - 7. The annual gross income from the property for the previous two years, if any;
  - 8. The annual cash flow, if any, for the previous two years;
  - 9. An applicant may submit and the Community Improvement Director or his/her designee may require that an applicant furnish additional information relevant to the determination of any alleged undue economic hardship; and [Amd. Ord. 03-12 2/21/12]
  - 10. In the event that any of the required information is not reasonably available to the property owner and cannot be obtained by the property owner, the property owner shall file statement of the information which cannot be obtained and the reasons why such information cannot be reasonably obtained. Where such unobtainable information concerns required financial information, the property owner will submit a statement describing estimates which will be as accurate as are feasible.
- (b) **Notice of proposed decision.** The City's Community Improvement Director, or his/her designee, shall have the authority to consider and act on waivers for undue economic hardship under this section. When a waiver has been requested, the City's Community

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Improvement Director, or his/her designee, shall issue a written determination within 45 days of the date of receipt of all required documentation and may, (1) grant the waiver request, (2) grant a portion of the request and deny a portion of the request, and/or impose conditions upon the grant of the request, or (3) deny the request. Any such denial shall be in writing and shall state the grounds therefore. All written determinations shall give notice of the right to appeal. The notice of determination shall be sent to the requesting party by certified mail, return receipt requested. If reasonably necessary to reach a determination on the request for reasonable accommodation, the City's Community Improvement Director, or his/her designee, may, prior to the end of said 45-day period, request additional information from the requesting party, specifying in sufficient detail what information is required. The requesting party shall have 15 days after the date of the request for additional information to provide the requested information. In the event a request for additional information is made, the 45-day period to issue a written determination shall no longer be applicable, and the City's Community Improvement Director, or his/her designee, shall issue a written determination within 30 days after receipt of the additional information. If the requesting party fails to provide the requested additional information within said 15-day period, the City's Community Improvement Director, or his/her designee, shall issue a written notice advising that the requesting party had failed to timely submit the additional information and therefore the request for waiver shall be deemed abandoned and/or withdrawn and no further action by the City with regard to said waiver request shall be required. [Amd. Ord. 40-12 11/6/12]

- (c) **Appeal.** Within 30 days after the Community Improvement Director's, or his/her designee's, determination on a waiver request is mailed to the requesting party, such applicant may appeal the decision. All appeals shall contain a statement containing sufficient detail of the grounds for the appeal. Appeals shall be to the City Commission who shall, after public notice and a public hearing, render a determination as soon as reasonably practicable, but in no event later than 60 days after an appeal has been filed. [Amd. Ord. 40-12 11/6/12]
- (3) **Reasonable accommodation.** Reasonable Accommodations from this section may be obtained pursuant to LDR Section 2.4.7(G).
- (4) **Penalties for violations.** The City adopts all enforcement methods, which include, but are not limited to, the issuance of a citation, summons, notice to appear in county court, arrest for violation of municipal ordinances, civil citations, injunction or any other enforcement method authorized by law including penalties as set forth in Section 10.99 of the City's Code of Ordinances. Any property owner that leases, rents, licenses, subleases, or otherwise allows in any manner or form the use of an entire dwelling unit within a single-family, rural residential, or planned residential development zoning district for a period of less than 12 months with a turnover in occupancy of any part of the dwelling unit more often than three times in any one year as well as those entire dwelling units that are located within Low Density Residential (RL) or Medium Density Residential (RM) Zoning Districts with a turnover in occupancy of any part of the dwelling unit more often than six times in any one year shall be in violation of this section. [Amd. Ord. 40-12 11/6/12]; [Amd. Ord. 03-12 2/21/12]
- (5) **Severability.**
- (a) Generally. If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of Section 4.3.3(ZZZ) is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect the remainder of Section 4.3.3(ZZZ), "Transient Residential Uses".

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- (b) If the entire Section 4.3.3(ZZZ) is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the earlier version of this section adopted by the City Commission on July 7, 2009 as Ordinance 29-09 shall be substituted herein and shall be deemed to be in full force and effect. [Amd. Ord. 03-12 2/21/12]

(ZZZZ) **Segway tours and segway sales.** Segway Tours and Segway Sales shall mean a business that is approved as a conditional use under Section 4.4.13 (D) which conducts tours on Segways and/or sells Segways. [Section Added by Ord. 04-11 4/5/11]

- (1) "Segway" is used as a generic term and does not refer to a particular manufacturer's product. Segway is defined for these purposes as an electric personal assistive mobility device (EPAMD) as set forth in Appendix "A".
- (2) Special conditions and limitations. The following Special Conditions and Limitations are imposed on Segway tours and sales:
  - (a) The applicant for Conditional Use will designate routes for the tours and shall be limited to only routes that are approved.
  - (b) No more than nine tours shall be conducted each day.
  - (c) All servicing of Segways shall be indoors and not utilize more than 20 percent of the floor area of the premises.
  - (d) No Segway sales or tour businesses shall be located within 300 feet of any other Segway sales or tour business, as measured from property line to property line in a straight line.
  - (e) Tour guides shall not amplify voice or music while operating tours.
  - (f) Pre-tour instructions shall not be conducted on public streets, sidewalks, or between the building and the adjacent street.
  - (g) Segway tours shall operate in compliance with the requirements of Chapter 132 of the City of Delray Beach Code of Ordinances.

#### **Sec. 4.4.9. General Commercial (GC) District.**

- (A) **Purpose and intent.** The General Commercial (GC) District provides basic regulations for small parcels which are best suited for general retail and office uses. In addition, this district has provisions in the Four Corners Overlay District which encourages mixed use development that may include retail, office, and multi-family uses. The GC designation is applied to small parcels, most of which are developed, where adherence to standard regulations is most appropriate. The GC designation is to be applied primarily along arterial and collector streets. Uses may be conducted singularly or in combination within the same structure. [Amd. Ord. 8-07 3/20/07]
- (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). [Amd. Ord. 8-07 3/20/07]; [Amd. Ord. 64-04 11/16/04]
  - (1) General retail uses and/or facilities, including, but not limited to: [Amd. Ord. 35-10 10/19/10]
    - (a) Antiques, arts and crafts, automotive parts, baked goods, books, carpet and floor covering, cheeses, beer, wine, liquor, confectioneries, cosmetics, meats, draperies and slipcovers, pharmacies, electrical fixtures and supplies, fabrics, fish, flowers and plants, fruits and vegetables, food, garden supplies, gifts, glassware, hardware and paints, home furnishings, ice cream, lawn care equipment, leather goods, luggage, medical and surgical equipment, music and musical instruments, nautical supplies, office furniture equipment and supplies, pets and pet

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supplies, photographic equipment and supplies, sewing supplies, sporting goods, toys, wearing apparel and accessories, appliances, bicycles, business machines, jewelry. [Amd. Ord. 35-10 10/19/10]

- (2) Business, Professional, and Medical uses including, but not limited to: [Amd. Ord. 09-10 7/20/10]
  - (a) Interior decorating, medical and dental clinics, medical and dental laboratories, photographic studios, printing and publishing, business offices, professional offices, and medical offices. [Amd. Ord. 09-10 7/20/10]
- (3) Contractor's Offices, including but not limited to:
  - (a) Air conditioning, general contractor, electrical, painting, and plumbing; however, any outside storage of materials is prohibited.
- (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, 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. [Amd. Ord. 36-11 10/18/11]; [Amd. Ord. 15-98 4/21/98] (Ord. No. 36-16, § 2, 1-10-17; Ord. No. 17-21, § 3, 10-19-21)
  - (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.
- (5) Dwelling units in the same structure as commercial uses provided that: commercial uses must be provided on the ground floor; commercial uses on the ground floor must occupy no less than 25 percent of the total structure excluding square footage devoted to vehicular use; residential uses are not located on the ground level; residential uses and non-residential uses are physically separated and have separate accessways; and the residential density does not exceed 12 units per acre, except the Four Corners District which may have a free standing residential building as part of a multi-building unified master plan or the residential component may be a part of a single mixed use building. The density of the Four Corners Master Plan shall not exceed 30 dwelling units per acre and is subject to the provisions under Section 4.4.9(G)(3)(d)(4). [Amd. Ord. 47-11 1/3/12]; [Amd. Ord. 10-11 4/5/11]; [Amd. Ord. 8-07 3/20/07]; [Amd. Ord. 43-04 8/17/04]; [Amd. Ord. 6-00 3/21/00] (Ord. No. 25-17, § 20, 7-18-17)
- (6) Astrologists, clairvoyants, fortune tellers, palmists, phrenologists, psychic readers, spiritualists, numerologists and mental healers, subject to the locational restrictions of Section 4.4.9(H)(3). [Amd. Ord. 64-04 11/16/04]; [Amd. Ord. 27-98 8/4/98]
- (7) Community Residence housing four to ten individuals, except as required by state law, that (1) is 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

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an appropriate national accrediting agency, or has been recognized or sanctioned by Congress to operate the proposed community residence. [Amd. Ord. 23-01 5/1/01] (Ord. No. 25-17, § 20, 7-18-17)

- (8) Tattoo Establishments, pursuant to restrictions set forth in Section 4.3.3(ZB). (Ord. No. 33-16, § 2, 11-15-16)
  - (9) Urban Agriculture pursuant to regulations set forth in Section 4.3.3(D). (Ord. No. 07-17, § 7, 5-16-17)
  - (10) CBD oil establishments, pursuant to restrictions set forth in Section 4.3.3(CC). (Ord. No. 58-20, § 3, 12-1-20)
- (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) Provision of services and repair of items incidental to the principal use;
  - (4) Storage of inventory either within the same structure as where the sale of goods occurs or in a separate structure on the same parcel provided that such storage facilities are not shared or leased independent of the primary commercial use of the site;
  - (5) Single family detached dwellings for residence by business owners, proprietors, or employees.
  - (6) Family day care home pursuant to Section 4.3.3(T). [Amd. Ord. 25-10 10/19/10]
  - (7) Automotive rental facility, accessory, subject to the requirements of Section 4.3.3(C). (Ord. No. 24-17 , § 3, 11-7-17)
- (D) **Conditional uses and structures allowed.** The following are allowed as conditional uses within the GC District, except as modified in the North Federal Highway Overlay District by Section 4.4.9(G)(2) and except as modified in the Four Corners Overlay District by Section 4.4.9(G)(3)(c). [Amd. Ord. 8-07 3/20/07]; [Amd. Ord. 64-04 11/16/04]; [Amd. Ord. 53-01 10/16/01]; [Amd. Ord. 53-96 11/19/96]
- DELETED NUMBERS AND RENUMBERED [Amd. Ord. 10-11 4/5/11]; [Amd. Ord. 30-98 9/8/98]; [Amd. Ord. 21-97 6/3/97]
- (1) Amusement game facilities. [Amd. Ord. 58-04 10/19/04]
  - (2) Wash establishments or facilities for vehicles.
  - (3) Child Care and Adult Day Care.
  - (4) Clubs and Lodges; social, fraternal, and recreational not exceeding 3,500 square feet of gross floor area. [Amd. Ord. 70-04 1/4/05]
  - (5) Drive-in Theaters.
  - (6) Flea Markets, bazaars, merchandise marts, and similar retail uses. [Amd. Ord. 51-92 10/27/92]
  - (7) Funeral Homes.
  - (8) Gasoline Stations or the dispensing of gasoline directly into vehicles.
  - (9) Hotels and Motels.
  - (10) Free-standing multiple-family housing subject to the requirements of the RM District except for setback and height requirements which shall be pursuant to this Section. [Amd. Ord. 10-11 4/5/11] (Ord. No. 25-17, § 21, 7-18-17)

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- (11) Recreational establishments such as bowling alleys, gymnasiums, health spas, miniature golf courses, skating rinks.
  - (12) Sales and service of All Terrain Vehicles and personal watercraft (waverunners, jet skis), with no outside display, outside storage or outside service. [Amd. Ord. 1-96 1/23/96]
  - (13) Vehicle care limited to the changing of oil and filters, and lubrication with no mechanical work or outside storage of vehicles except as a part of a gasoline station. [Amd. Ord. 1-96 1/23/96]
  - (14) Pet services, pet hotels, and veterinary clinics, subject to Section 4.3.3(W). [Amd. Ord. 1-96 1/23/96]; Amd. Ord. 14-91 02/26/91] (Ord. No. 17-21, § 4, 10-19-21)
  - (15) Group Home, Type 2 and Community Residential Homes, pursuant to restrictions set forth in Section 4.3.3(I). [Amd. Ord. 23-01 5/1/01]
  - (16) Adult Gaming Centers. [Amd. Ord. 58-04 10/19/04]
  - (17) 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. [Amd. Ord. 70-04 1/4/05]
  - (18) Multiple family residential development, including assisted living facilities that do not comport with the definition of "community residence," may exceed 12 units per acre, up to a maximum of 22 units per acre within the Infill Workforce Housing Area, subject to the provisions of Section 4.4.6(I), and Article 4.7, and subject to the requirements of the RM District except for setback and height requirements, which shall be pursuant to this Section. [Amd. Ord. 08-14 7/1/14]; [Amd. Ord. 47-11 1/3/12]; [Amd. Ord. 10-11 4/5/11]; [Amd. Ord. 17-06 4/4/06] (Ord. No. 25-17, § 21, 7-18-17)
  - (19) Assisted Living Facilities that do not comport with the definition of "community residence", Nursing Homes, and Continuing Care Facilities subject to the requirements of the RM District except for setback and height requirements which shall be pursuant to this Section. [Amd. Ord. 10-11 4/5/11]; [Amd. Ord. 20-08 4/15/08] (Ord. No. 25-17, § 21, 7-18-17)
  - (20) Large Family Child Care Home, subject to Section 4.3.3(TT). [Amd. Ord. 25-10 10/19/10]
  - (21) Community Residence housing four to ten individuals, except as required by state law, that (1) is less than 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, or (2) the State of Florida does not require the operator or applicant to be licensed or certified to operate the proposed community residence, has no certification from an appropriate national accrediting agency, or has not been recognized or sanctioned by Congress to operate the proposed community residence. (Ord. No. 25-17, § 21, 7-18-17)

(E) **Review and approval process.**

- (1) In established structures, uses shall be allowed therein upon application to, and approval by, the Chief Building Official for a certificate of occupancy.
- (2) For all new development, site plan approval must be granted by the Site Plan Review and Appearance Board pursuant to Sections 2.4.5(F), (G), (I), except for development in the Four Corners Overlay District which is subject to the provisions of Section 4.4.9(E)(4) below. [Amd. Ord. 8-07 3/20/07]
- (3) Conditional uses must be approved pursuant to the provisions of Section 2.4.5(E).
- (4) All Development within the Four Corners District shall be governed by a Master Development Plan (MDP). The MDP shall consist of a narrative; a land use map; conceptual site plan, landscaping, and utility plans; and conceptual elevations and architectural information. A MDP shall be processed

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pursuant to Section 2.4.5(F) with approval granted by the Planning and Zoning Board. A MDP may be modified pursuant to Section 2.4.5(G). Any new development approval must be granted by the Site Plan Review and Appearance Board with respect to Sections 2.4.5(F), (H), and (I) and be consistent with the approved Master Development Plan (MDP). A site plan modification shall follow procedures outlined in Section 2.4.5(G). [Amd. Ord. 8-07 3/20/07]

- (a) Applications for site plan approval pursuant to Section 4.4.13(1) must include, in addition to the standard application items of 2.4.3(A), a site and development plan (including landscaping, elevations, and floor plans) that is of sufficient detail to determine that the applicable performance standards are being met. Final approval of the detailed site plan is by the Site Plan Review and Appearance Board and is to be consistent with adopted (MDP). [Amd. Ord. 8-07 3/20/07]
  - (b) Waivers and internal adjustments to these standards may be approved by the Planning and Zoning Board concurrent and as a part of the approval of a Master Development Plan (MDP). [Amd. Ord. 8-07 3/20/07]
  - (c) When considering a Master Development Plan (MDP) in the Four Corners Overlay, the Planning and Zoning Board may attach suitable conditions, safeguards, and stipulations to address the specific characteristics of the site and potential impacts of the proposed development. [Amd. Ord. 8-07 3/20/07]
- (F) **Development standards.** The development standards set forth in Section 4.3.4 shall apply except as modified below: [Amd. Ord. 21-04 5/4/04]
- (1) If there is no vehicular access available to the rear of any structure, a side setback of ten feet shall be provided. For a side interior lot, a ten-foot setback is required only on one side. [Amd. Ord. 21-04 5/4/04]
  - (2) North Federal Highway Area: The following development standard shall apply to parcels which have frontage on North Federal Highway or the North Federal Highway one-way pairs (N.E. 5<sup>th</sup> Avenue and N.E. 6<sup>th</sup> Avenue) between N.E. 4<sup>th</sup> Street and the north City limits. [Amd. Ord. 17-99 6/15/99]
    - (a) Parcels shall have a minimum front building setback of five feet measured from the ultimate right-of-way line. The maximum setback shall be 15 feet, unless it can be demonstrated to the Site Plan Review and Appearance Board that it is not feasible to comply with this standard. [Amd. Ord. 17-99 6/15/99]
  - (3) Four Corners Overlay District. The following development standards shall apply to parcels within the Four Corners Overlay District: [New Subsection added by Ord. 8-07 3/20/07]
    - (a) **Minimum site area.**
      - 1. Minimum site area for the total development within the Four Corners Overlay District is to be four acres. However, the approving body for the Four Corners Overlay may grant a waiver to the four acre requirement upon a determination that the development is consistent with the purpose and intent of the Four Corners Overlay District and attempts have been made to aggregate adjacent parcels. Evidence must be provided that aggregation is not feasible.
    - (b) **Minimum floor area.**
      - 1. Residential units are subject to the minimum square footage per unit requirements of LDR Section 4.3.4(K) (Development Standards Matrix for Residential Zoning Districts - Subnote #1).
    - (c) **Lot coverage.**

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1. Lot coverage by building, pavement and hardscape site improvements shall not exceed 75 percent of the area of development of any individual lot.

(d) **Perimeter buffers.**

1. A landscape buffer shall be provided around the perimeter of each parcel within the development pursuant to the applicable buffers as listed below in this section. Parking, structures, perimeter roadways, and other paving is not permitted within this buffer except for bicycle paths, sidewalks, jogging trails, and driveways or access streets which provide ingress and egress for traffic and which are generally perpendicular to the buffer. The width of the buffer shall be the smaller distance of either the dimensions below or ten percent of the average depth of the property; however, in no case shall the landscape area be a width of less than ten feet:
  - a. When adjacent to a collector or arterial street: 30 feet
  - b. When abutting residentially zoned property: 40 feet
  - c. When adjacent to but separated from residentially zoned property by a street, waterway, alley, railway or park: 25 feet
  - d. When abutting non residentially zoned property: 25 feet
  - e. When commercial and/or office uses abut residential parcels within the Four Corners Overlay master development plan: 25 feet

(e) **Building height.**

1. Buildings shall be allowed to a maximum height of 60 feet on parcels of four acres or more and a maximum of 48 feet for parcels less than four acres.

(f) **Setbacks.**

1. Atlantic Avenue / Military Trail Frontage: To the greatest extent possible buildings shall be placed at the minimum setback of 30 feet to a maximum building height of 42 feet. Thereafter, additional setbacks for the portion of the building exceeding 42 feet shall be a minimum of an additional ten feet.
2. If a Master Plan consists of multiple parcels, the setback from the internal parcel lines shall be 25 feet.
3. Master Development Plan (MDP) perimeter non-frontage setbacks shall be consistent with the applicable perimeter buffers as specified in Sections (F)(3)(d).

(G) **Supplemental district regulations.** In addition to the supplemental district regulations set forth in Article 4.6, the following supplemental district regulations shall apply in the GC District. [Amd. Ord. 72-95 12/5/95]

DELETED (1) AND RENUMBERED [Amd. Ord. 64-04 11/16/04]

ADDED (1) AND RENUMBERED [Amd. Ord. 07-09 3/3/09]

- (1) The parking requirement for business and professional offices within that portion of the GC zoning district bounded by S.E. 5th Avenue on the west, S.E. 6th Avenue on the east, S.E. 4th Street on the north and S.E. 10th Street on the south is established at one space per 300 square feet of net floor area. [Amd. Ord. 07-09 3/3/09]
- (2) North Federal Highway Overlay District: The following supplemental district regulations apply to the North Federal Highway Overlay District, as defined in Section 4.5.7. [Amd. Ord. 53-96 11/19/96]

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- (a) In addition to the uses listed in 4.4.9(D), the following light industrial uses are allowed as conditional uses: [Amd. Ord. 53-96 11/19/96]
1. Fabrication and/or assembly of manufactured materials or parts for distribution or sale, such as sheet metal, sign shops, glass shops, electronics, cabinet and furniture making. [Amd. Ord. 53-96 11/19/96]
  2. The wholesaling, storage and distribution of products and materials; [Amd. Ord. 7-03 4/15/03]; [Amd. Ord. 53-96 11/19/96]
  3. Self-service storage facilities that comply with subsection (c) below. [Amd. Ord. 7-03 4/15/03]
- (b) All uses listed under subsection (a) above must: [Amd. Ord. 53-96 11/19/96]
1. Operate in conjunction with a permitted service or retail use that is located on the premises; [Amd. Ord. 53-96 11/19/96]
  2. Maintain a commercial facade along North Federal Highway, with the light industrial aspect of the business oriented toward Dixie Highway; [Amd. Ord. 53-96 11/19/96]
  3. Operate within an enclosed building, with no outside storage; [Amd. Ord. 53-96 11/19/96]
  4. Orient overhead doors away from adjacent rights-of-way, except where existing, or where the approving body determines that it is not feasible to comply; and, [Amd. Ord. 53-96 11/19/96]
  5. Along the property line adjacent to Dixie Highway, provide a landscape buffer consisting of a four feet high hedge, and trees planted 25 feet on center to form a solid tree line. [Amd. Ord. 53-96 11/19/96]
- (c) In addition to subsection (b) above, any self-service storage facility shall comply with the following. The following regulations supersede Section 4.3.3(A). [Amd. Ord. 7-03 4/15/03]
1. **Lot area.** The minimum lot area is one and one-half acres and the maximum lot area is three acres. [Amd. Ord. 7-03 4/15/03]
  2. **Facilities and requirements.**
    - a. Outdoor bay type access to individual self-storage units that face a street is prohibited. The exterior loading access points shall be designed in such a way to minimize sight lines from adjacent roads. [Amd. Ord. 7-03 4/15/03]
    - b. No building shall exceed 48 feet in height. [Amd. Ord. 7-03 4/15/03]
    - c. Parking shall be provided at the rates set forth in Section 4.6.9 for the permitted service, office and retail uses and for self-storage uses, parking shall be at a rate of one parking space per 100 storage units or portion thereof, including: (a) a minimum of three loading spaces for the self-service storage facility that must be striped and signed to limit the time for loading and unloading to one hour; and in addition (b) three and one-half spaces for each 1,000 square feet of accessory office use associated with the self-storage use. Notwithstanding the above, a minimum of five parking spaces other than loading spaces shall be provided in connection with the self-storage use. [Amd. Ord. 24-03 8/5/03]; [Amd. Ord. 7-03 4/15/03]
    - d. At least 2,500 square feet of ground floor area shall be devoted to at least one additional principal retail or service use without limiting the foregoing. The

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additional principal uses may be eating and drinking establishments, retail or personal service. [Amd. Ord. 7-03 4/15/03]

3. **Limitation of uses.**
  - a. Activities not related to the rental or lease of self-storage units shall not be conducted within the self-service storage facility area, unless specifically permitted through the conditional use process. [Amd. Ord. 7-03 4/15/03]
  - b. Except as otherwise provided in subsection (c), no business or activity other than self-storage shall be conducted from any self-storage unit in the facility. Examples of prohibited uses include, but are not limited to the following: the servicing, repair and/or restoration of automobiles, boats, recreational vehicles, and/or restoration of automobiles, boats, recreational vehicles, lawnmowers and the like; moving and self-storage companies; cabinet making and wood working (whether personal or professional); personal hobbies and arts and crafts; and any other activity unless specifically permitted through the conditional use process. [Amd. Ord. 7-03 4/15/03]
  - c. Except as otherwise provided in this subsection (c), there shall be no electrical power provided to, or accessible from any individual self-storage units. This includes the provision of lighting fixtures to the interior of a self-storage unit, unless specifically addressed in the conditional use approval. The use of portable generators is also prohibited. [Amd. Ord. 7-03 4/15/03]
  - d. The use or storage of any hazardous materials is prohibited. [Amd. Ord. 7-03 4/15/03]
  - e. the terms and conditions of this section shall be clearly expressed in all self-storage rental or leasing contracts, as well as conspicuously displayed in plain view on a sign no smaller than one foot by two feet in the leasing office at the facility. [Amd. Ord. 7-03 4/15/03]
4. **On-site manager.** An on-site manager shall be employed at the facility during all hours of operation. [Amd. Ord. 7-03 4/15/03]
5. **Hours of operation.** Customers of the self-service storage facility may not access individual self-storage units before 5:00 a.m. or any later than 9:00 p.m. Hours of operation may be further restricted when it is deemed that morning and evening traffic into and out of the facility may negatively impact the character of an adjacent residential area. In no circumstance shall customers of any self-service storage facility have 24-hour access to their self-storage unit(s). [Amd. Ord. 7-03 4/15/03]
6. **Landscape Requirements:** In addition to all applicable landscape requirements and other special provisions pursuant to the individual zone district, a minimum ten-foot landscape buffer shall be required adjacent to Federal Highway and Dixie Highway and a minimum five-foot landscape buffer shall be required along all property lines that do not abut a roadway. [Amd. Ord. 7-03 4/15/03]
7. **Outdoor storage of vehicles, boats and truck rental.** Outdoor storage of boats and vehicles and truck rental is prohibited. [Amd. Ord. 7-03 4/15/03]
8. **Architecture.** All self-service storage facility buildings must comply with the following architectural standards. [Amd. Ord. 7-03 4/15/03]

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- a. Building facades visible from the public right-of-way shall have the appearance of a service and/or retail building through the use of doors, windows, awnings, and other appropriate building elements. [Amd. Ord. 7-03 4/15/03]
  - b. Exterior building material shall be stucco or a similar material. [Amd. Ord. 7-03 4/15/03]
  - c. Buildings that can accommodate two or more stories shall be designed where facing a street to have the appearance of a multi-story building through the use of windows, doors, awnings, canopies or other appropriate building elements. [Amd. Ord. 7-03 4/15/03]
  - d. Building facades facing a public right-of-way must have a 15 percent minimum transparency consisting of windows that provide visibility from the public right-of-way from the interior. [Amd. Ord. 7-03 4/15/03]
  - e. Detailed building elevations shall be submitted prior to the Conditional Use public hearing. [Amd. Ord. 7-03 4/15/03]
9. **Location.** A self-service storage facility shall not be located within a radius of 1,000 feet of another existing self-service storage facility. [Amd. Ord. 7-03 4/15/03]
- (3) **Four Corners Overlay District.** The following supplemental district regulations apply to the Four Corners Overlay District, as defined in Section 4.5.14. [New Subsection added by Ord. 8-07 3/20/07]
- (a) The permitted uses shall be those uses listed in Sections 4.4.9(B)(1,2,4,5,8). (Ord. No. 07-17, § 7, 5-16-17)
  - (b) The accessory uses shall be those uses listed in Section (C).
  - (c) The conditional uses shall be those uses listed in Sections (D)(2, 3, 9, 11, 14, 19, and 20). [Amd. Ord. 45-11; 1/3/12]; [Amd. Ord. 25-10; 10/19/10]; [Amd. Ord. 20-08 4/15/08]
  - (d) Standards pertaining to allocation of uses.
    1. Office uses can encompass up to 100 percent of the total building square footage within a Four Corners Overlay master development plan.
    2. Retail uses shall not encompass more than 100 percent of the total building area square footage of the Four Corners Overlay master development plan.
    3. Hotels, motels, and residential all suite lodging shall not encompass more than 20 percent of the total building area square footage of the Four Corners Overlay master development plan. Notwithstanding the above, hotels, motels and residential all suite lodging can comprise 100 percent of the floor area of an individual building within a MDP containing multiple buildings.
    4. Multi-family Dwelling Units: Multi-family uses and assisted living facilities, but excluding duplexes subject to (a)(b)(c)(d)(e) below, ranging in density not to exceed 30 units per acre subject to the following: [Amd. Ord. 47-11 1/3/12]
      - a. Residential units may comprise 75 percent of the total floor area of the development master plan at a maximum density of 30 units per acre and only when proposed as part of a mixed-use development containing office and/or commercial uses.
      - b. Residential developments must include a minimum of 20 percent workforce units consisting of moderate income workforce units as defined by Article 4.7 Family/Workforce Housing.

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- c. Workforce units shall be subject to general provisions of Article 4.7.6, 4.7.7, 4.7.8, 4.7.9, and 4.7.10.
  - d. For mixed-use developments, the shared parking provisions of LDR Section 4.6.9(C)(8) shall be allowed.
  - e. All residential developments shall be subject to the Performance Standards of 4.4.13(l)(2).
- (e) Standards Unique to the Four Corners Overlay District. Where standards unique to the Four Corners Overlay District conflict with standards contained elsewhere in the zoning, subdivision, and landscape codes, the standards of this Subsection shall apply:
- 1. **Lot coverage and open space.**
    - a. Land area equal to at least 25 percent of the individual Four Corners Overlay District Master Development Plan (MDP) including the perimeter landscaped boundary, shall be in open space. Water bodies and paved areas shall not be included in the meeting of this 25 percent open space requirement. [Amd. Ord. 41-09 10/20/09]
  - 2. Minimum Structure Size: Any free-standing non-residential principal structure shall have a minimum floor area of 4,000 square feet; shall be architecturally consistent with other structures in the master development plan; and shall have direct access to and from other portions of the Four Corners Overlay development.
  - 3. Office and Commercial Floor Heights shall be a minimum of 12 feet floor to floor on the first floor and ten feet floor to floor on all floors above. Residential uses shall have a minimum nine feet floor to floor on all floors. Hotel, motel and residential all suite lodging shall have a minimum of eight feet six inches floor to floor on all floors. Auxiliary and service rooms, such as, garages, restrooms, closets, laundry rooms, dressing rooms, storage rooms, mechanical, electrical, and plumbing equipment rooms are exempted from the floor height regulations.
- (4) **Lintco Development Overlay District.** Within the Lintco Development Overlay District, as defined by Section 4.5.19(A), non-residential development intensity in non-residential or mixed-use developments shall be limited to a maximum Floor Area Ratio (FAR) of 0.36. [Amd. Ord. 21-12 8/7/12]
- (5) **Infill Workforce Housing Overlay District.** Within the Infill Workforce Housing Overlay District, as defined by Section 4.5.12 non-residential development intensity in non-residential or mixed-use developments shall be limited to a maximum Floor Area Ratio (FAR) of 0.75. [Amd. Ord. 08-14 07/01/14]
- (H) **Special regulations.**
- (1) The first ten feet of the front yard setback which is adjacent to a right-of-way shall be a landscaped area, except within the North Federal Highway Area as defined in 4.4.9(F)(2), which is subject to the special landscape setbacks of Section 4.3.4(H)(6)(b), and the Four Corners Overlay district which is subject to special landscape buffers under Section 4.4.9 (F)(3)(d).  
  
Within the required front landscape area, no paving shall be allowed except for driveways and walkways which shall be generally perpendicular to the property line. [Amd. Ord. 8-07 3/20/07]; [Amd. Ord. 64-04 11/16/04]; [Amd. Ord. 17-99 6/15/99]  
  
DELETED (2) and (3) AND RENUMBERED [Amd. Ord. 64-04 11/16/04]
  - (2) Any outdoor display of sporting goods and equipment for rent is subject to the restrictions set forth in Section 4.6.6(C)(3). [Amd. Ord. 15-98 4/21/98]

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- (3) Astrologists, clairvoyants, fortune tellers, palmists, phrenologists, psychic readers, spiritualists, numerologists and mental healers are limited to the geographical areas along N.E. and S.E. 5<sup>th</sup> and 6<sup>th</sup> Avenues (Federal Highway pairs), between S.E. 10<sup>th</sup> Street and S.E. 3<sup>rd</sup> Street, and between N.E. 4<sup>th</sup> Street and N.E. 7<sup>th</sup> Street, and shall be limited to no more than one of each business every 300 feet, measured in a straight line from lot line to lot line. [Amd. Ord. 27-98 8/4/98]
  - (4) Twenty-four-hour or late night businesses as defined herein must be processed as a conditional use and are subject to the provisions of Section 4.3.3(VV). [Amd. Ord. 41-01 8/7/01]
  - (5) No Clubs and Lodges (social, fraternal and recreational) or Church or Places of Worship shall be located closer than 750 feet from another such facility measured from lot line to lot line boundary along a straight airline route. [Amd. Ord. 70-04 1/4/05]

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### Sec. 4.4.13. Central Business (CBD) District.<sup>1</sup>

- (A) **Purpose and intent.** The Central Business District (CBD) is established to preserve and protect the cultural and historic aspects of downtown Delray Beach and simultaneously provide for the stimulation and enhancement of the vitality and economic growth of this special area. The CBD is comprised of five sub-districts, each with regulations to support their distinctive characteristics. The CBD is compatible with land areas designated as Commercial Core on the Land Use Map. (Ord. No. 19-18, § 2, 10-16-18; Ord. No. 23-20, § 25, 9-10-20; Ord. No. 26-21, § 2, 8-10-21; Ord. No. 20-21, § 2, 12-7-21)
- (1) **Central Core Sub-district.** The Central Core Sub-district regulations are intended to result in development that preserves the downtown's historic moderate scale, while promoting a balanced mix of uses that will help the area evolve into a traditional, self-sufficient downtown. Residential development is permitted at a density that fosters compact, pedestrian oriented growth that will support downtown businesses. See Figure 4.4.13-B-1 "Central Core and Beach Sub-Districts Regulating Plan." (Ord. No. 19-18, § 2, 10-16-18; Ord. No. 26-21, § 2, 8-10-21)
  - (2) **Beach Sub-district.** The Beach Sub-district regulations are intended to preserve and enhance the character of these areas, the public condition of the beach, the vitality of its center, and the natural environment. Within this area, the Delray Beach Master Plan calls for redevelopment of existing buildings in a manner that places storefronts close to the street and parking to the rear. Where existing buildings are separated from the pedestrian ways by wide landscaped areas, the addition of arcades and new building square footage to bring the storefronts closer to the street is encouraged. The Beach Sub-district is located within the Coastal Planning Area, and as such, density and intensity are limited to promote community resiliency. See Figure 4.4.13-B-1 "Central Core and Beach Sub-Districts Regulating Plan." (Ord. No. 19-18, § 2, 10-16-18; Ord. No. 26-21, § 2, 8-10-21)
  - (3) **West Atlantic Neighborhood Sub-district.** The West Atlantic Neighborhood Sub-district regulations are intended to be consistent with the Downtown Delray Beach Master Plan and the West Atlantic Master Plan. The emphasis of these regulations is on the preservation and enhancement of existing neighborhoods, while promoting a pedestrian friendly commercial area along West Atlantic Avenue that contains a mix of residential, commercial and civic functions. Businesses that are oriented toward serving the local neighborhood, as opposed to a regional area, are encouraged. Density incentives are available for redevelopment in this Sub-district to promote the inclusion of workforce housing. See Figure 4.4.13-B-2, "West Atlantic Neighborhood Sub-District Regulating Plan." (Ord. No. 19-18, § 2, 10-16-18; Ord. No. 26-21, § 2, 8-10-21)
  - (4) **Railroad Corridor Sub-district.** The Railroad Corridor Sub-district regulations are intended to allow for development of light industrial type and mixed commercial and nonresidential uses on properties that are in the downtown area, but are also in close proximity to the FEC Railway. The purpose of the area is to recognize the long-standing light industrial character of this railroad corridor; to provide for the upgrading and expansion of existing uses when appropriate; and to enhance the economic growth of the CBD by providing additional employment opportunities in the downtown area. This Sub-district is comprised of two nodes, one in the northern part of the CBD and one in the southern part of the CBD. Density incentives are available for redevelopment in a limited area of this sub-district to promote the

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<sup>1</sup>Editor's note(s)—Ord. No. 26-21, §§ 2—8 and 10, adopted August 10, 2021, repealed Figures 4.4.13-1—4.4.13-4 and redesignated the existing Figures 4.4.13-5—4.4.13-7, 4.4.13-8, 4.4.13-8A, 4.4.13-9—4.4.13-12, 4.4.13-13—4.4.13-28, 4.4.13-29—4.4.13-31, 4.4.13-32—4.4.13-35, and 4.4.13-36 as Figures 4.4.13-B-1—B-3, 4.4.13-C-1, 4.4.13-C-2, 4.4.13-D-1—4.4.13-D-4, 4.4.13-E-1—4.4.13-E-16, 4.4.13-F-1—4.4.13-F-3, 4.4.13-G-1—4.4.13-G-4, and 4.4.13-K-1, respectively.

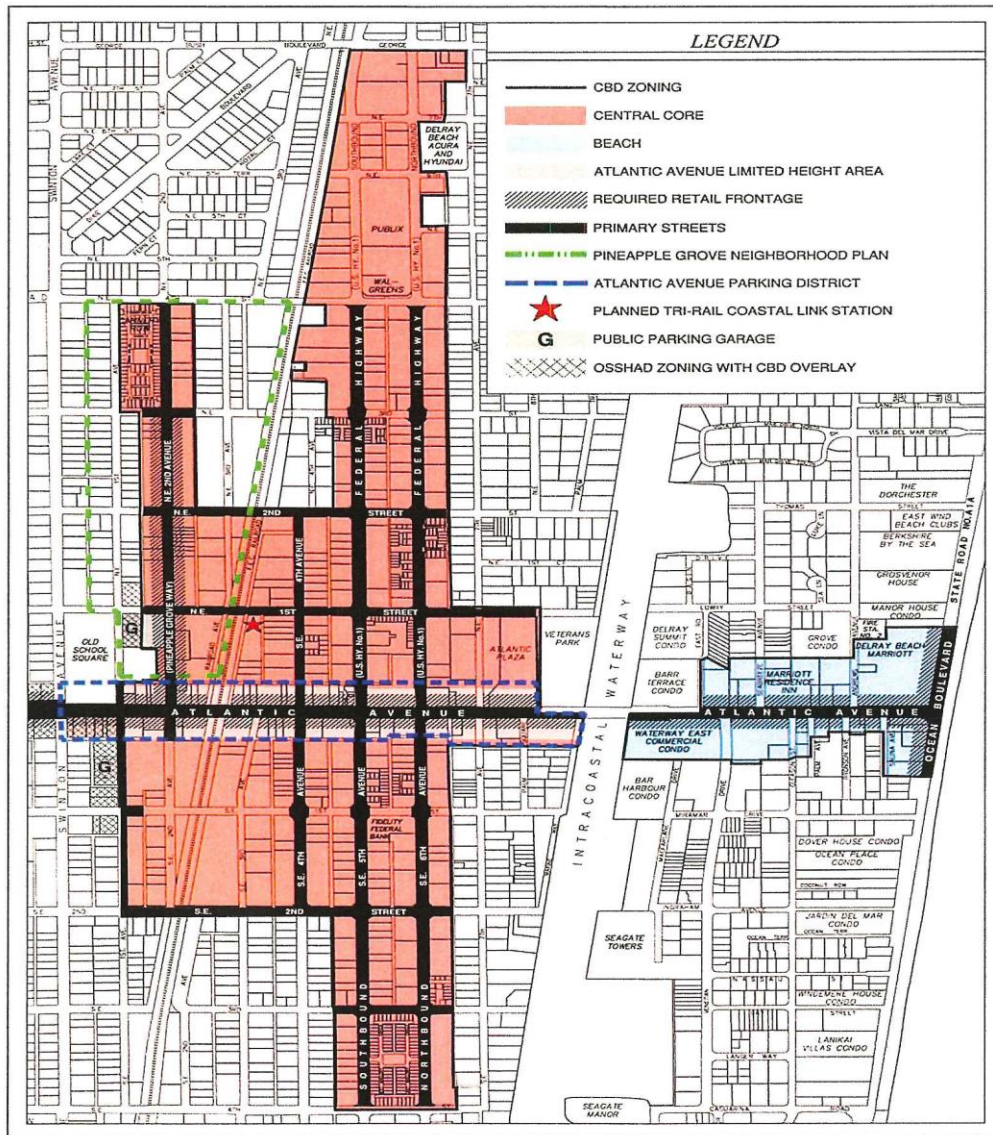
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inclusion of workforce housing. See Figure 4.4.13-B-3 "Railroad Corridor Sub-District Regulating Plan." (Ord. No. 19-18, § 2, 10-16-18; Ord. No. 26-21, § 2, 8-10-21)

- (5) **South Pairs Neighborhood Sub-district.** The South Pairs Neighborhood Sub-district regulations are intended to result in development that promotes an attractive, walkable, mixed-use environment along the South Federal Highway corridor, while providing a compatible and appropriate transition to the residential neighborhoods to the east and west of the Sub-district. Density incentives are available in specific areas of this Sub-district to spur redevelopment along the corridor, to promote the inclusion of workforce housing, and to encourage compatible transitions to adjacent single-family neighborhoods. See Figure 4.4.13-B-4 "South Pairs Neighborhood Sub-District Regulating Plan." (Ord. No. 20-21, § 2, 12-7-21)
- (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 Development Services Department. The Regulating Plans depict the following information: (Ord. No. 19-18, § 3, 10-16-18; Ord. No. 26-21, § 3, 8-10-21)
- (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). (Ord. No. 19-18, § 3, 10-16-18)
- (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 as 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)(3). (Ord. No. 19-18, § 3, 10-16-18)
- (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). (Ord. No. 19-18, § 3, 10-16-18; Ord. No. 07-20, § 2, 5-19-20)
- 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. (Ord. No. 07-20, § 2, 5-19-20)
- b. Building height is limited in certain areas in the West Atlantic Neighborhood and South Pairs Neighborhood Sub-districts to encourage compatible transitions to the surrounding single-family neighborhoods. (Ord. No. 07-20, § 2, 5-19-20; Ord. No. 20-21, § 3, 12-7-21)
- (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)(4)(c). (Ord. No. 19-18, § 3, 10-16-18)
- (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. [Amd. Ord. 27-15 10/20/15] (Ord. No. 19-18, § 3, 10-16-18)

- a. 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). (Ord. No. 19-18, § 3, 10-16-18)
- b. CBD Overlay properties are also subject to the OSSHAD Special District Regulations of Section 4.4.24(H). (Ord. No. 19-18, § 3, 10-16-18)
- c. CBD Overlay properties must adhere to the required standards set forth in Section 4.4.13(F)(1), and 4.4.13(K)(3). (Ord. No. 19-18, § 3, 10-16-18)

**Figure 4.4.13-B-1 Central Core and Beach Sub-districts Regulating Plan**



(Ord. No. 13-16, § 1(Exh. A), 6-7-16; Ord. No. 26-21, § 3, 8-10-21)

**Figure 4.4.13-B-2**  
**West Atlantic Neighborhood Sub-district Regulating Plan**



(Ord. No. 07-20, § 3, 5-19-20; Ord. No. 9-20, § 3 Ex. C, 8-18-20; Ord. No. 26-21, § 3, 8-10-21)

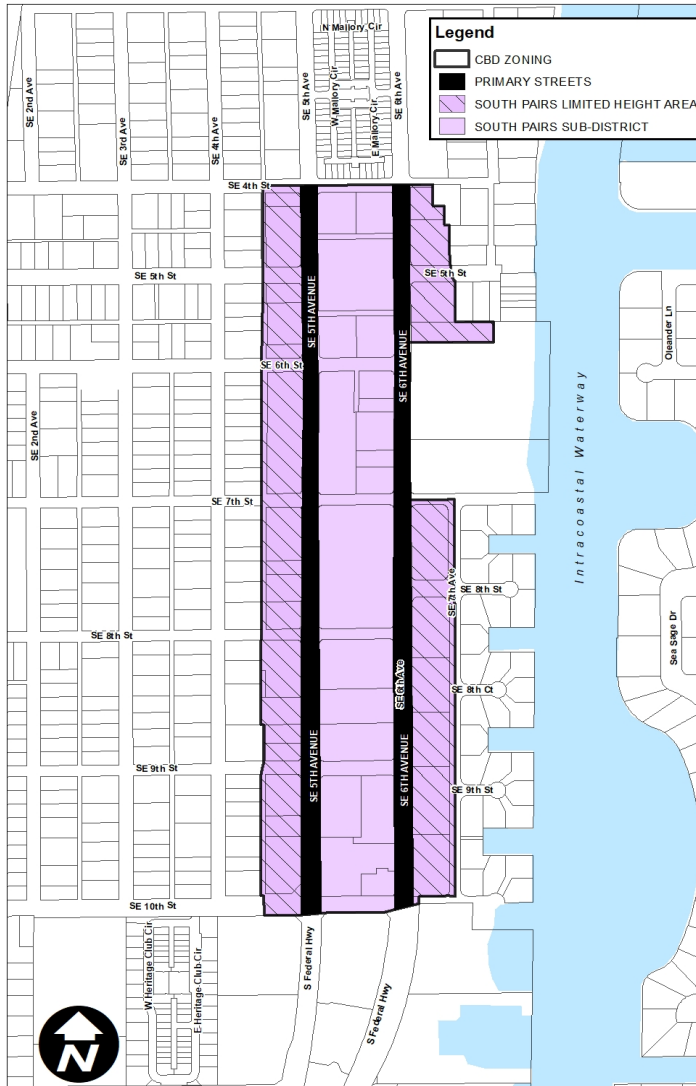
**Figure 4.4.13-B-3**  
**Railroad Corridor Sub-district**

# Regulating Plan



(Ord. No. 10-21, § 3(Exh. C), 5-4-21; Ord. No. 26-21, § 3, 8-10-21)

Figure 4.4.13-B-4 South Pairs Neighborhood Sub-district Regulating Plan



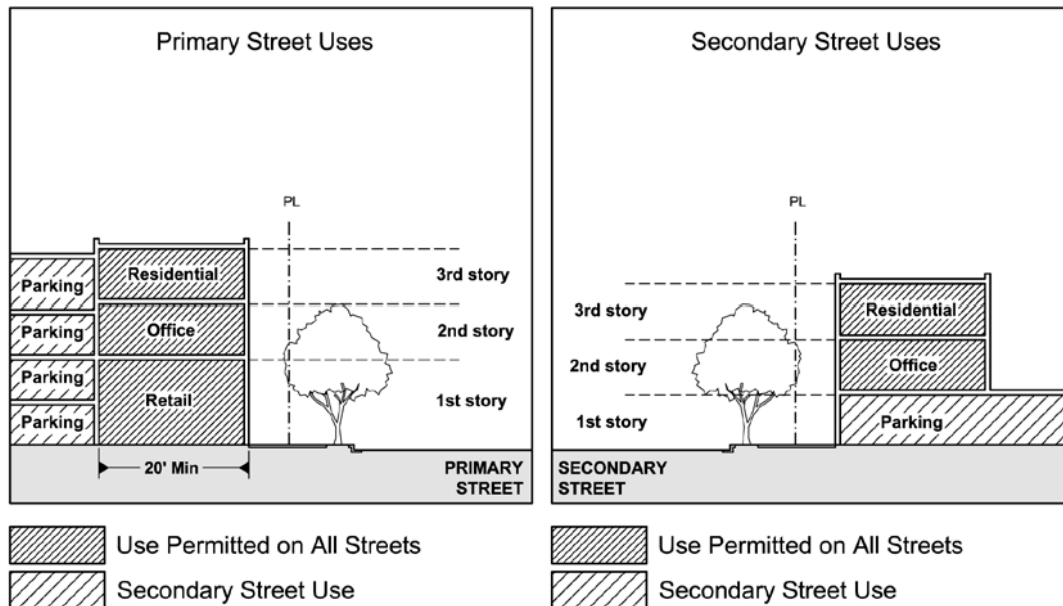
(Ord. No. 20-21, § 3, 12-7-21)

(C) **Allowable uses.**

- (1) **Principal, accessory, and conditional uses.** Table 4.4.13(A) identifies the allowable principal, accessory, and conditional uses for each area of the CBD. See Section 4.4.13(J) for approval standards. Streets designated as "Primary Streets" and/or with "Required Retail Frontage" on any Sub-district Regulating Plan have additional standards. (Ord. No. 19-18, § 4, 10-16-18)
- (2) **Use variations for Primary and Secondary Streets.** Primary Streets are intended to be superior pedestrian environments and, as such, are held to higher standards regarding the location of certain uses, including parking. The Sub-district Regulating Plans designates certain streets as "Primary Streets" and all other streets are considered to be "Secondary Streets." (Ord. No. 19-18, § 4, 10-16-18)

- (a) Where a principal or accessory use does not have an "S" in Table 4.4.13(A), the use is permitted on both Primary and Secondary streets.
- (b) Where a principal or accessory use in Table 4.4.13(A) has an "S" in the column, the use is a "Secondary Street" use.
  1. Secondary Street uses are permitted without limitations on Secondary Streets, except for properties zoned OSSHAD with CBD Overlay, as identified on Figure 4.4.13-B-1, "Central Core & Beach Sub-districts Regulating Plan," and Figure 4.4.13-B-2, "West Atlantic Neighborhood Regulating Plan." [Amd. Ord. 28-15 12/08/15] (Ord. No. 26-21, § 4, 8-10-21)
  2. On Secondary Streets, properties zoned OSSHAD with CBD Overlay shall line Secondary Street uses (except accessory parking in a surface lot) along the street level for a depth of at least 20 feet on all stories by a use permitted on all streets. [Amd. Ord. 28-15 12/08/15]
  3. On Primary Streets, Secondary Street uses (including parking garage levels) shall be lined along the street for a depth of at least 20 feet on all stories by a use permitted on all streets (see Figure 4.4.13-C-1). (Ord. No. 28-15, § 2, 12-8-15; Ord. No. 26-21, § 4, 8-10-21)
  4. On Primary Streets, Public Parking Garages (as mapped on a regulating plan) shall be lined along the sidewalk level for a depth of at least 20 feet by a use permitted on all streets; a use liner is not required on upper levels. (Ord. No. 28-15, § 2, 12-8-15)
- (c) Additional standards for Conditional Uses are in Section 4.4.13(K)(7). (Ord. No. 19-18, § 4, 10-16-18)

**Figure 4.4.13-C-1 Primary and Secondary Street Uses**



(Ord. No. 26-21, § 4, 8-10-21)

- (3) **Required Retail Frontage Use Limitations.** Streets designated on the Regulating Plan with Required Retail Frontage are intended to be lively, highly active pedestrian environments that support

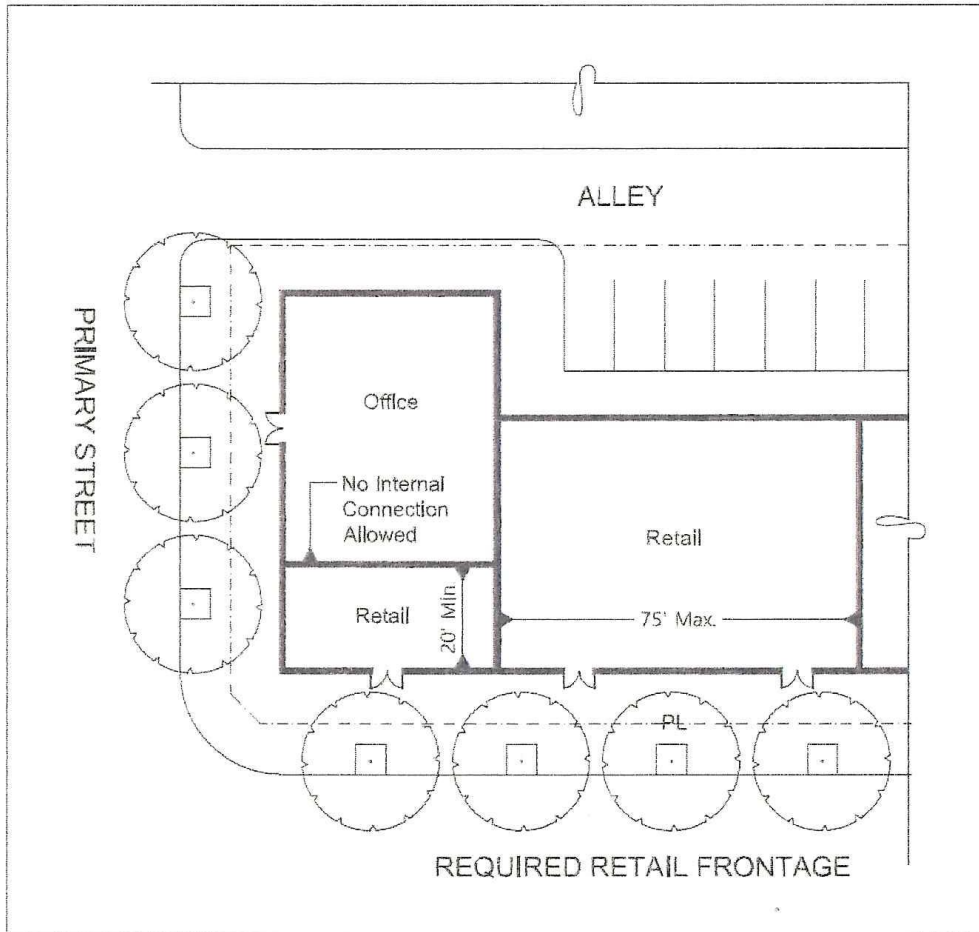
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businesses and reinforce local character. Properties on streets designated with Required Retail Frontage have use and frontage type standards that apply to the sidewalk level story. (Ord. No. 19-18, § 4, 10-16-18)

(a) **All Sub-districts.** (Ord. No. 19-18, § 4, 10-16-18)

1. Residential units, including multi-family and live-work, are not permitted in the sidewalk-level story on streets with Required Retail Frontage.
2. On streets with Required Retail Frontage, buildings and uses at the sidewalk level shall comply with the following: [Amd. Ord. 28-15 12/08/15] (Ord. No. 19-18, § 4, 10-16-18)
  - a. The frontage type shall be either a Storefront or Arcade with a Storefront. See Section 4.4.13(E); (Ord. No. 19-18, § 4, 10-16-18; Ord. No. 26-21, § 4, 8-10-21)
  - b. The width of an individual commercial space shall not exceed 75 feet (See Figure 4.4.13-C-2); (Ord. No. 19-18, § 4, 10-16-18; Ord. No. 26-21, § 4, 8-10-21)
  - c. The depth of an individual commercial space shall be at least 20 feet and contain only uses permitted in 4.4.13(C)(3)(b) and (c); combinations of permitted uses with other uses not permitted at the sidewalk level are not allowed (See Figure 4.4.13-C-2); and (Ord. No. 19-18, § 4, 10-16-18; Ord. No. 26-21, § 4, 8-10-21)
  - d. Uses not permitted in 4.4.13(C)(3)(b) and (c) shall not be accessed from the street designated with Required Retail Frontage and must be physically separated with no interior connections between common walls (See Figure 4.4.13-C-2). (Ord. No. 19-18, § 4, 10-16-18; Ord. No. 26-21, § 4, 8-10-21)
3. Valet and passenger loading areas and access are not permitted. (Ord. No. 19-18, § 4, 10-16-18)

Figure 4.4.13-C-2 Required Retail Frontage



(Ord. No. 26-21, § 4, 8-10-21)

- (b) **Central Core and Beach Sub-districts.** One hundred percent of the building frontage at the sidewalk-level story shall be for the following uses (as described in Table 4.4.13(A)): (Ord. No. 19-18, § 4, 10-16-18)
1. General retail uses and/or facilities. (Ord. No. 12-20, § 2, 10-20-20)
  2. Services and facilities. (Ord. No. 33-16, § 5, 11-15-16; Ord. No. 19-18, § 4, 10-16-18; Ord. No. 12-20, § 2, 10-20-20)
  3. Hotels, motels, or residence-type inns.
  4. NEV sales, lease or rental offices. (Ord. No. 36-16, § 5, 1-10-17)
  5. Limitations and exceptions. (Ord. No. 12-20, § 2, 10-20-20)
    - a. Tattoo establishments are not permitted. (Ord. No. 12-20, § 2, 10-20-20)
    - b. Financial institutions are limited to banks and savings and loan establishments; brokerage firms and private wealth management firms are not permitted. The following regulations also apply: (Ord. No. 12-20, § 2, 10-20-20)

- i. No more than 75 feet of financial institution frontage is allowed per block face; and (Ord. No. 12-20, § 2, 10-20-20)
- ii. No more than a total of 100 feet of financial institution frontage is allowed on facing street frontages. (For example, a new financial institution with 30 feet of street frontage may locate across the street from an existing financial institution with 70 feet of street frontage.) (Ord. No. 12-20, § 2, 10-20-20)
- c. Sale of automotive parts, lawn care equipment, firearms, or secondhand material (other than verifiable antiques) are not permitted. (Ord. No. 12-20, § 2, 10-20-20)
- d. Buildings constructed prior to 1980 located in the Beach Sub-district that have 80 percent or more of their frontage at a setback of 25 feet or greater shall be exempted from the 100 percent ground floor retail requirement. (Ord. No. 12-20, § 2, 10-20-20)
- e. CBD oil establishments as a principal use, or the sale of CBD oil products as an accessory use. (Ord. No. 58-20, § 5, 12-1-20)

(c) **West Atlantic Neighborhood Sub-district.**

- 1. At least 50 percent of the building frontage of the sidewalk level story shall be for the following uses (as described in Table 4.4.13(A)): (Ord. No. 19-18, § 4, 10-16-18)
  - a. General retail uses and/or facilities, except that sales of automotive parts, lawn care equipment, firearms, or second hand material (other than verifiable antiques) are not permitted.
  - b. Services and facilities
  - c. Hotels, motels, or residential-type inns as a Conditional Use
- 2. Up to 50 percent of the building frontage of the sidewalk level story may be for business, professional, and medical uses/offices; more than 50 percent may be approved as a Conditional Use. (Ord. No. 19-18, § 4, 10-16-18)

Table 4.4.13(A)—Allowable Uses and Structures in the CBD Sub-Districts					
Uses	Central Core	Railroad Corridor	Beach Area	West Atlantic Neigh. <sup>5</sup>	South Pairs Neigh
General retail uses and/or facilities, as in GC district (4.4.9) <sup>1</sup>	P	P	P	P	P
Business, professional, and medical uses, as in GC district (4.4.9)	P	P	P	P	P
Services and facilities, as in GC district (4.4.9) <sup>2</sup> , excluding drive-through facilities	P	P	P	P	P
Multiple-family dwellings <sup>3</sup>	P	P	P	P	P
Astrologist, clairvoyants, fortune tellers, palmists, phrenologists, psychic reads, spiritualists, numerologists and mental healers as in GC district (4.4.9)	-	-	-	-	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	C
Live/work units (see 4.3.3(KKK))	P	P	P	P	P
Hotels, motels, and residential-type inns <sup>3</sup> (see 4.3.3(M) and 4.3.3 (X))	P	P	P	C	C
Bed and breakfast inns (see 4.3.3 (Y))	P	P	P	C	C
Public Parking Garages, as mapped on a Regulating Plan	P,S	P,S	P,S	P,S	P,S
Fabrication and/or Assembly	-	P	-	-	-
Wholesaling, Storage, and Distribution <sup>4</sup>	-	P	-	-	-
Contractor and trade services	-	P	-	-	P
Automobile brokerage, including vehicle display within an enclosed structure	-	P	-	-	-
Tattoo Establishments (see 4.3.3(ZB))	P,A	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	A
Home occupations (see 4.3.3(K))	A	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	A,S
Parking areas, passenger drop-off, loading/unloading, refuse and service areas	A,S	A	A,S	A,S	A,S
Automated Parking Garages	-	S	-	-	-
Refuse and service areas					
Recreational facilities (for a multiple-family development)	A	A	A	A	A
Services and repair (incidental to the associated principal use)	A,S	A	A,S	A,S	A,S
Single-family dwelling (occupied by owner, proprietor, or employee of the principal use)	A	A	A	A	A
Storage of inventory (not shared or leased independent of the principal use)	A,S	A	A,S	A,S	A,S
Automobile repair, service	-	C	-	-	-
Neighborhood Automotive Rental facility (See 4.3.3(C))	-	-	-	-	C
Child care Facilities (see 4.3.3(E)) and adult day care facilities (see 4.3.3(F))	C	C	C	C	C
Commercial recreational facilities, such as bowling alleys, skating rinks, and amusement game facilities	C	C	C	C	C
Drive-through facilities (serving banks, financial institutions, retail uses, etc.) <sup>2</sup> See 4.4.13(J)(7)(a)	C	C	C	C	C
Food Preparation and/or Processing including bakeries and catering	-	C	-	-	-
Funeral homes, including accessory uses such as a chapel or crematory	C	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	-	-	C
Large family child care homes (see 4.3.3(TT))	C	C	C	C	C
Dry-cleaning Processing Plants	-	C	-	-	-
Segway tours and Segway sales (see 4.3.3(ZZZZ))	C	C	C	C	C
Theaters, excluding drive-ins	C	C	C	C	C
Pet Services [See 4.3.3(W)]	C	C	C	C	C
Pet Hotels [see 4.3.3(W)]		C			C
Veterinary Clinics [see 4.3.3(W)]	C	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	C
Urban Agriculture [4.3.3 (D)] excluding outdoor Urban Farms	P,A	P,A	-	P,A	P,A
Outdoor Urban Farms [4.4.3(D)]	C	C	C	C	C
Clubs and Lodges as in GC (4.4.9)	-	-	-	-	C
Flea Markets, Bazaars as in GC (4.4.9)	-	-	-	-	C
Sales and service of all terrain vehicles and personal watercraft as in GC (4.4.9)	-	-	-	-	C
Vehicle care (See 4.4.13(C)(4)(f)(5))	-	-	-	-	C
Churches or places of worship (See 4.4.13(C)(4)(c))	-	-	-	C	C
<b>LEGEND: P = Principal Use A = Accessory Use C = Conditional Use - = Prohibited Use S = Secondary Street Use</b>					

<sup>1</sup> 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.

<sup>2</sup> Drive-thru and Drive-in restaurants are not permitted within the CBD.

<sup>3</sup> For density limits, see Table 4.4.13(C).

<sup>4</sup> 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)

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

(Ord. No. 07-17, § 10, 5-16-17; Ord. No. 25-17, § 22, 7-18-17; Ord. No. 19-18, § 4, 10-16-18; Ord. No. 31-18, § 2, 1-15-19; Ord. No. 58-20, § 6, 12-1-20; Ord. No. 17-21, § 6, 10-19-21; Ord. No. 20-21, § 4, 12-7-21)

**(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 four 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. (Ord. No. 19-18, § 4, 10-16-18)

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- (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. (Ord. No. 19-18, § 4, 10-16-18)
- (c) **West Atlantic Neighborhood Sub-district Supplemental Use Standards:** The following supplemental district regulations apply in the West Atlantic Neighborhood Sub-district: (Ord. No. 19-18, § 4, 10-16-18)
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. Residential structures and 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 from West Atlantic Avenue with approval by the SPRAB or the HPB of a site plan design that ensures compatible transitions between commercial and residential areas. Establishment or expansion of 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. (Ord. No. 19-18, § 4, 10-16-18; Ord. No. 07-20, § 4, 5-19-20)
  2. There is no restriction on repair of non-conforming single family residences located more than 150 feet from West Atlantic Avenue. (Ord. No. 19-18, § 4, 10-16-18)
- (d) **Railroad Corridor Sub-district Supplemental Use Standards.** The following supplemental district regulations apply in the Railroad Corridor Sub-district: (Ord. No. 19-18, § 4, 10-16-18; Ord. No. 31-18, § 3, 1-15-19)
1. **Outdoor uses:** Within the Railroad Corridor Sub-district, except for outside storage approved pursuant to Section 4.6.6(C)(2) and outdoor dining, all principal and conditional uses shall be conducted within an enclosed building. (Ord. No. 19-18, § 4, 10-16-18; Ord. No. 31-18, § 3, 1-15-19)
  2. **Automobile brokerages:** Inventory must only be located within an enclosed building. Automobiles which are part of the business inventory must not be placed in parking areas. (Ord. No. 19-18, § 4, 10-16-18; Ord. No. 31-18, § 3, 1-15-19)
  3. **Parking garages, automated:** Automated parking garages are allowed on Secondary Streets located north of NE 2<sup>nd</sup> Street. Automated parking garages are subject to the following requirements: (Ord. No. 31-18, § 3, 1-15-19)
    - a. A traffic statement must be provided detailing the ingress, egress, queuing, and circulation demonstrating the specific measures taken to minimize stacking onto public right-of-way resulting from the automated parking garage. (Ord. No. 31-18, § 3, 1-15-19)
    - b. An attendant must be on-site during all hours of operation, defined as any time the parking garage is accessible for parking purposes by the public, and the garage must be secured when not accessible for parking purposes. An attendant is not required if the parking garage is limited to private use. i.e, not available to the general public. (Ord. No. 31-18, § 3, 1-15-19)
    - c. Projects with driveways that limit the ability to install the required number of street trees shall either provide the required trees at another location on-site

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or contribute to the Tree Fund, in accordance with the fee schedule in Section 4.6.19(E)(5)(d). (Ord. No. 31-18, § 3, 1-15-19)

- d. The SPRAB may approve automated parking garages that utilize an alternative façade design or cladding materials provided photovoltaic cells (solar panels) are incorporated into the structure and used as a power source for the garage operations or uses associated with the automated parking garage; if solar panels are not incorporated, facades that do not meet the architectural standards in Section 4.4.13(F) require City Commission approval. (Ord. No. 31-18, § 3, 1-15-19)
- (e) **South Pairs Neighborhood Sub-district Supplemental Use Standards:** The following supplemental district regulations apply in the South Pairs Neighborhood Sub-district: (Ord. No. 20-21, § 5, 12-7-21)
  - 1. Hotels, motels or residential-type inns shall only be permitted as a conditional use and on sites located between SE 5<sup>th</sup> Avenue and SE 6<sup>th</sup> Avenue. (Ord. No. 20-21, § 5, 12-7-21)
  - 2. Automobile brokerages/rental: Inventory must only be located within an enclosed building and shielded from the primary street. Automobiles that are part of the business inventory must not be stored in public or required parking areas. (Ord. No. 20-21, § 5, 12-7-21)
  - 3. Astrologists, clairvoyants, fortune tellers, palmists, phrenologists, psychic readers, spiritualists, numerologists and mental healers are limited to no more than one business every 300 feet, measured in a straight line from lot line to lot line. (Ord. No. 20-21, § 5, 12-7-21)
  - 4. Vehicle care limited to the changing of oil and filters and lubrication, with no mechanical work or outside storage of vehicles, except as part of a gasoline station. (Ord. No. 20-21, § 5, 12-7-21)
- (f) **Special Requirements for Specific Uses:** Permitted uses that are not specified in Table 4.4.13(A) may also have additional regulations in Section 4.3.3. (Ord. No. 19-18, § 4, 10-16-18; Ord. No. 26-21, § 4, 8-10-21; Ord. No. 20-21, § 5, 12-7-21)
- (g) **Outdoor use areas:** All outdoor uses areas, with the exception of accessory uses clearly ancillary to the principal use, are subject to parking requirements. This provision is applicable to balconies, porches, rooftops, and any other outdoor use area regardless of which story it is located. (Ord. No. 19-18, § 4, 10-16-18; Ord. No. 20-21, § 5, 12-7-21)
- (h) **Rooftop Terraces:** These regulations are intended to guide the use of rooftops in the downtown. (Ord. No. 19-18, § 4, 10-16-18; Ord. No. 20-21, § 5, 12-7-21)
  - 1. **Rooftop uses.** Rooftop terraces may be used for outdoor dining, open-air lounges, exercise and fitness activities (both as principal or accessory uses), rooftop gardens, urban agriculture, and recreational amenities. (Ord. No. 19-18, § 4, 10-16-18)
  - 2. **General Standards for rooftops.** All rooftop terraces shall comply with the following standards: (Ord. No. 19-18, § 4, 10-16-18)
    - a. Rooftop terraces shall be architecturally compatible with the design of the overall building. (Ord. No. 19-18, § 4, 10-16-18)
    - b. Rooftop terraces shall be designed to mitigate potential impacts to surrounding properties. (Ord. No. 19-18, § 4, 10-16-18)
      - i. Lighting standards of Section 4.6.8 apply. All rooftop lighting shall be full cutoff luminaries to minimize spillover on adjacent properties. Light poles

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may not extend beyond the maximum building height limit. (Ord. No. 19-18, § 4, 10-16-18)

- ii. Live music and music played by a disc jockey are not permitted unless within enclosed spaces; and, noise control is subject to the City's Noise Ordinance. (Ord. No. 19-18, § 4, 10-16-18)
  - iii. For properties adjoining or separated by an alley from a residential zoning district, OSSHAD, or an existing residential use, rooftop terrace design shall provide screening at least six feet in height along the adjoining perimeter to limit oversight into residential properties. Privacy screening shall not extend above 60 feet and may consist of a parapet, landscape, railings, etc. (Ord. No. 19-18, § 4, 10-16-18)
  - iv. Outdoor rooftop activities (not within enclosed areas) are limited on Sunday through Thursday to the time between 7 a.m. and 10 p.m., and on Friday and Saturday to the time between 7 a.m. and 11 p.m. (Ord. No. 19-18, § 4, 10-16-18)
- c. Parking must be provided when a principal use is located on a rooftop terrace. (For example, restaurant seating or an outdoor yoga studio). Parking is not required for amenities that are ancillary to the principal use. (For example, a swimming pool for a condominium). (Ord. No. 19-18, § 4, 10-16-18)
  - d. Railings or parapets shall be a minimum of four feet in height, consistent with proposed architectural style, and provided for the full perimeter of rooftop terrace. Railing and parapet height may not extend beyond the maximum building height of 60 feet. (Ord. No. 19-18, § 4, 10-16-18)

3. ***Rooftops on Buildings with the Maximum Number of Stories.*** These regulations are intended to guide the non-habitable use of rooftops for buildings built to the maximum story height limit to allow rooftop terraces. Rooftop terraces and rooftop amenities, such as roof gardens, observation decks, swimming pools, and running tracks, are encouraged to create unique gathering spaces, to aid in the reduction of the urban heat index, and to add aesthetic value to the buildings. Rooftop terraces are not intended to add additional story height. Rooftop terraces shall be subject to the following criteria: (Ord. No. 19-18, § 4, 10-16-18)

- a. Rooftop terraces that are entirely open to the sky may occupy 100 percent of the total gross roof area. (Ord. No. 19-18, § 4, 10-16-18)
- b. Rooftop terraces shall be hardscaped with materials such as, but not limited to, patterned concrete, pavers, or wood decking. (Ord. No. 19-18, § 4, 10-16-18)
- c. Rooftop terraces shall be landscaped over a minimum of ten percent of the rooftop terrace area. Landscaping shall consist of trees, shrubs, ground cover, and vines. (Ord. No. 19-18, § 4, 10-16-18)
- d. Covered structures located above the maximum allowable number of stories are permitted to cover a maximum area of 25 percent of the rooftop terrace area. For the purposes of calculating the maximum area, the term "covered structures" shall not include enclosures for screening mechanical systems, elevator shafts, or stair towers. The following restrictions apply: (Ord. No. 19-18, § 4, 10-16-18)

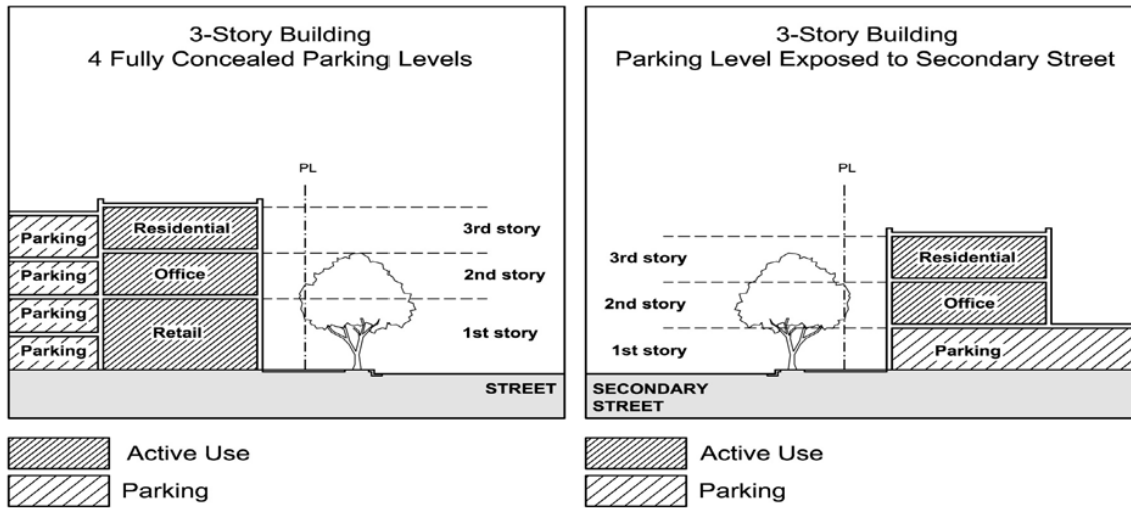
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- i. Covered structures located above the maximum number of stories shall not exceed a maximum height of 60 feet. (Ord. No. 19-18, § 4, 10-16-18)
    - ii. The uses within covered structures shall not be for residential or similar use or for uses generally with a 24-hour occupancy. Covered structures that may be climate-controlled are limited to elevator lobby areas, restrooms, restaurants, lounges, fitness centers, and similar uses. (Ord. No. 19-18, § 4, 10-16-18)
  - 4. **Swimming pools on rooftops.** Swimming pools and/or hot tubs are permitted in rooftop terraces subject to the following criteria: (Ord. No. 19-18, § 4, 10-16-18)
    - a. Swimming pools and hot tubs are only permitted as amenities to residential or hotel buildings. (Ord. No. 19-18, § 4, 10-16-18)
    - b. Swimming pools and hot tubs are permitted provided the top of the surrounding deck does not exceed eight feet above the top of the main rooftop. (Ord. No. 19-18, § 4, 10-16-18)
    - c. Swimming pools and/or whirlpools shall be surrounded by a minimum five-foot wide walkway. (Ord. No. 19-18, § 4, 10-16-18)
    - d. Supporting restroom facilities associated with swimming pools shall comply with the standards for covered structures. (Ord. No. 19-18, § 4, 10-16-18)

(D) **Configuration of buildings.**

- (1) **Standards for CBD.** The following building configuration standards apply to all CBD Sub-districts: (Ord. No. 19-18, § 5, 10-16-18)
  - (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 Tables 4.4.13(B) and 4.4.13(C)). Stories are measured from the finished floor to finished ceiling. (See Figure 4.4.13-D-2). (Ord. No. 19-18, § 5, 10-16-18; Ord. No. 26-21, § 5, 8-10-21; Ord. No. 20-21, § 6, 12-7-21)
    - 1. Within the Atlantic Avenue Limited Height Area, maximum overall building height 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-B-1). (Ord. No. 19-18, § 5, 10-16-18; Ord. No. 26-21, § 5, 8-10-21)
    - 2. Within the West Atlantic Neighborhood Limited Height Area, the maximum overall building height 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. (Ord. No. 07-20, § 5, 5-19-20; Ord. No. 20-21, § 6, 12-7-21)
    - 3. Within the South Pairs Neighborhood Limited Height Area, maximum overall building height is 48 feet and the maximum number of stories is four. The South Pairs Neighborhood Limited Height Area is defined as those properties or portions of properties located west of SE 5<sup>th</sup> Avenue or east of SE 6<sup>th</sup> Avenue. (See Figure 4.4.13-B-4) (Ord. No. 19-18, § 5, 10-16-18; Ord. No. 07-20, § 5, 5-19-20; Ord. No. 10-20, § 3, 9-22-20; Ord. No. 03-21, § 2, 3-2-21; Ord. No. 20-21, § 6, 12-7-21)

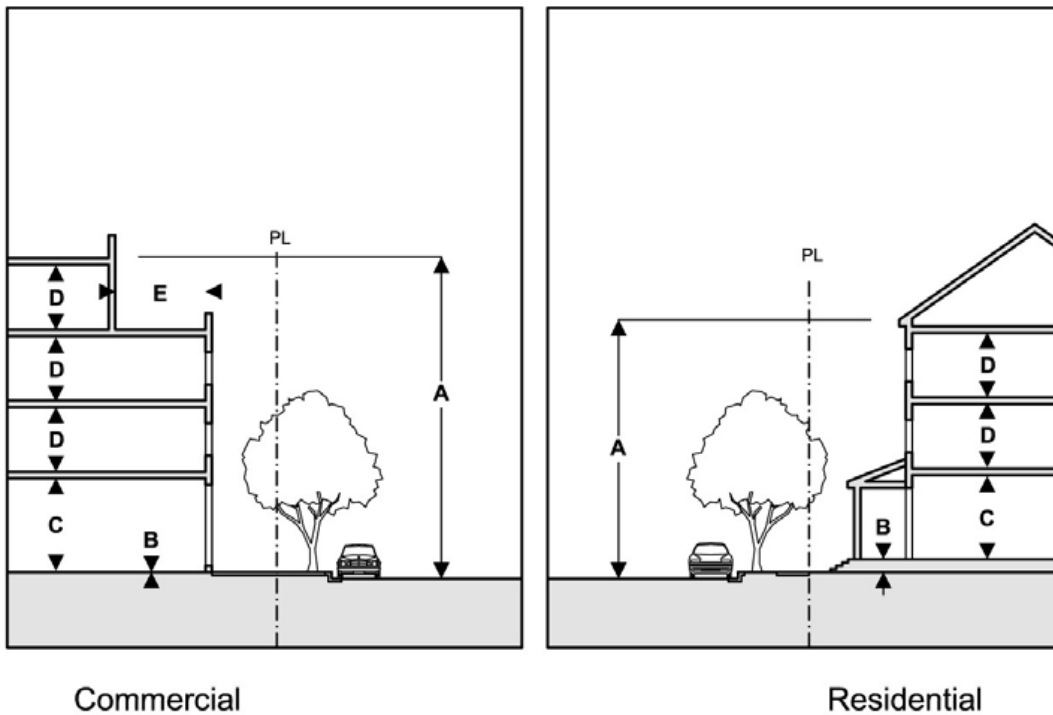
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4. Stories located below grade are for parking or storage uses only and are not counted for the purpose of measuring building height unless the floor of the first habitable story is elevated more than four feet above the adjacent sidewalk, then the space below counts as the first story for the purposes of measuring building height. (Ord. No. 19-18, § 5, 10-16-18; Ord. No. 07-20, § 5, 5-19-20)
  5. The ground story of commercial or mixed-use buildings shall be a minimum of 12 feet tall. (Ord. No. 07-20, § 5, 5-19-20)
  6. The ground story of residential buildings shall be a minimum of ten feet tall. (Ord. No. 07-20, § 5, 5-19-20)
  7. Each story above the ground story in all buildings must be at least nine feet tall. (Ord. No. 07-20, § 5, 5-19-20)
  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). [Amd. Ord. 27-15 10/20/2015] (Ord. No. 07-20, § 5, 5-19-20)
  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-D-1. (Ord. No. 19-18, § 5, 10-16-18; Ord. No. 07-20, § 5, 5-19-20; Ord. No. 26-21, § 5, 8-10-21)
  10. Within the Central Core, Railroad Corridor, Beach and South Pairs Neighborhood 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. (Ord. No. 07-20, § 5, 5-19-20; Ord. No. 20-21, § 6, 12-7-21)
  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 ten feet above the maximum overall building height unless specifically approved by action of the City Commission. (Ord. No. 19-18, § 5, 10-16-18; Ord. No. 07-20, § 5, 5-19-20)
  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. (Ord. No. 19-18, § 5, 10-16-18; Ord. No. 07-20, § 5, 5-19-20)

Figure 4.4.13-D-1 Counting the Number of Stories



(Ord. No. 26-21, § 5, 8-10-21)

Figure 4.4.13-D-2 Measuring Building Height



(Ord. No. 26-21, § 5, 8-10-21)

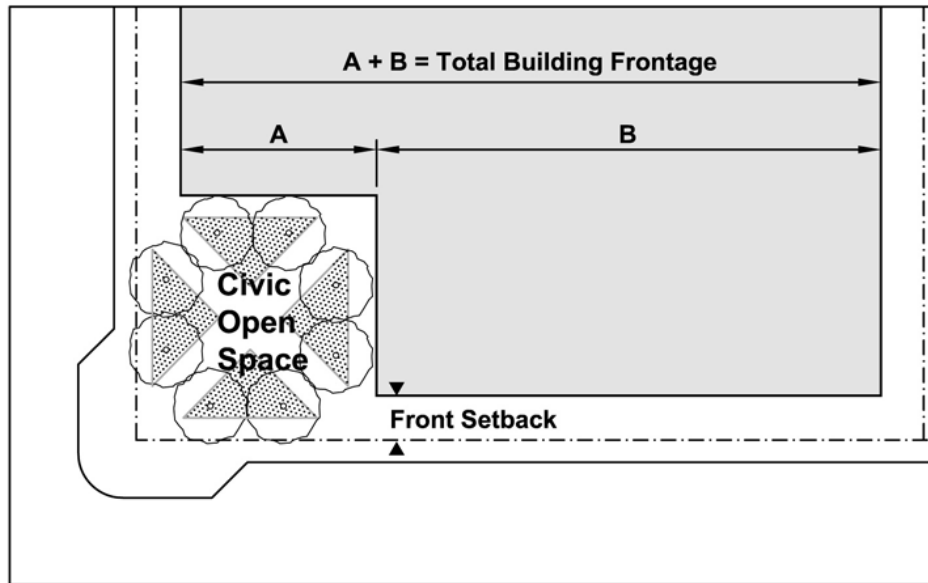
Table 4.4.13(B) Building Height		
A	Maximum Building Height in the Atlantic Avenue Limited Height Area	3 stories and 38 ft.
	Maximum Building Height in the West Atlantic Neighborhood Limited Height Area	3 stories and 35 ft.
	Maximum Building Height in South Pairs Neighborhood Limited Height Area	4 stories and 48 ft.
	Maximum Building Height in the Railroad Corridor Sub-district south of SE 2 <sup>nd</sup> Street	5 stories and 54 ft.
	Maximum Building Height in all other areas of the CBD	4 stories and 54 ft.
B	Ground Floor Finish Level	
	Residential Units in the Beach, Central Core, South Pairs Neighborhood 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 <sup>rd</sup> Story	varies

(Ord. No. 19-18, § 5, 10-16-18; Ord. No. 07-20, § 6, 5-19-20; Ord. No. 03-21, § 3, 3-2-21; Ord. No. 20-21, § 6, 12-7-21)

(b) **Building placement.**

1. Front setbacks shall be measured from the property lines coinciding with public rights-of-way, including streets and parks.
  - a. Awnings, porches, balconies, stoops and arcades may encroach into the setbacks as set forth in Section 4.4.13(E) when utilized as the Frontage Type. (Ord. No. 19-18, § 5, 10-16-18)
  - b. Roof Eaves, awnings, and balconies may encroach into the setbacks a maximum of four feet. (Ord. No. 19-18, § 5, 10-16-18)
  - c. Section 4.3.4(H)(4) identifies additional structures permitted in setbacks.
  - d. Underground parking or storage may encroach into the front setbacks. (Ord. No. 10-20, § 3, 9-22-20)

Figure 4.4.13-D-3 Building Frontage Requirement



(Ord. No. 26-21, § 5, 8-10-21)

2. Where development may build with no side setback, the following limitations also apply:
  - a. Side setbacks are required when abutting a residential zoning district or a property with a building existing as of February 24, 2015, the effective date of Ordinance No. 02-15 with windows facing the adjoining lot line. Then, new development shall set back a minimum of five feet or the amount necessary to provide at least ten feet of separation between the existing and new buildings, whichever is greater. (Ord. No. 19-18, § 5, 10-16-18)
  - b. Buildings with openings, including doors, windows, and glass wall materials, facing an interior side property line must setback a minimum of five feet from the property line. (Ord. No. 19-18, § 5, 10-16-18)
  - c. Buildings taller than three stories in height have additional setback requirements for the upper stories, as described in Section 4.4.13(D)(2).
  - d. These requirements shall not apply to any underground parking or storage located below grade. (Ord. No. 10-20, § 3, 9-22-20)
3. In the South Pairs Neighborhood District, lot lines adjoining SE 7<sup>th</sup> Avenue shall be considered a rear and regulated by rear setback requirements. Development abutting SE 7th Avenue shall not face or provide vehicular or pedestrian access to or from SE 7th Avenue. (Ord. No. 20-21, § 6, 12-7-21)
- (c) **Frontage percentages.** Building frontage is the percentage of the total width of a lot minus the required setbacks, which is required to be occupied by the building facade. Building frontage requirements are set forth in Table 4.4.13(C) for each CBD Sub-district. (Ord. No. 19-18, § 5, 10-16-18)
  1. Building façades shall be generally parallel to the right-of-way, located in accordance with the minimum and maximum front setback requirements. (Ord. No. 19-18, § 5, 10-16-18)

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2. The building façade may adjust around a Civic Open Space that meets the requirements in Section 4.4.13(G) as shown in Figure 4.4.13-D-3. (Ord. No. 19-18, § 5, 10-16-18; Ord. No. 26-21, § 5, 8-10-21)
  3. On corner lots, the building façade shall extend from the corner to ensure that new development (or civic open space) defines the corner. (Ord. No. 19-18, § 5, 10-16-18)
- (d) **Dwelling unit standards.**
1. **Diverse unit types.** A number of different unit types, sizes and floor plans shall be available within the development. Two and three bedroom units are encouraged, as are a combination of multi-level units and flats. In projects consisting of more than 12 dwelling units, the proportion of efficiency or studio type units may not exceed 25 percent of the total units. One bedroom units may not exceed 30 percent; however, if no efficiency or studio units are constructed, the cumulative amount of one bedroom units may not exceed 55 percent. There is no maximum percentage for unit types established for projects having 12 or fewer units, however, a mix of unit types and sizes is encouraged.
  2. **Minimum floor area.** Minimum floor area for multi-family residential dwelling units shall be as established for the Medium Density Residential (RM) zoning district in Section 4.3.4(K).
- (e) **Other standards.** Other standards also apply in CBD sub-districts:
1. Frontage Standards are in Section 4.4.13(E).
  2. Architectural Standards are in Section 4.4.13(F).
  3. Civic Open Space Standards are in Section 4.4.13(G).
  4. Incentive Program is in Section 4.4.13(H).
  5. Parking Standards are in Section 4.4.13(I).
  6. Review and Approval Process is in Section 4.4.13(J)
- (2) **Dimensional requirements for CBD Sub-districts.** Table 4.4.13(C) provides the dimensional requirements regarding lot size, building placement, building size, height, density, and civic open space for each CBD Sub-district. Figure 4.4.13-D-4 illustrates the dimensional requirements from the table. (Ord. No. 26-21, § 5, 8-10-21)
- (a) Buildings shall be located in accordance with the minimum and maximum setbacks in Table 4.4.13(C).
1. The front setback or side setback facing a street or park is a minimum of 10 feet and a maximum of 15 feet, except within the South Pairs Neighborhood Sub-district on SE 5<sup>th</sup> Avenue and SE 6<sup>th</sup> Avenue where the front or side setbacks facing a street or park are a minimum of 15 feet and a maximum of 20 feet. (Ord. No. 20-21, § 6, 12-7-21)
  2. The minimum rear setback is ten feet and minimum side interior setbacks are zero feet, unless required per 4.4.13(D)(1)(b)2. Side lot lines adjoining alleys are regulated by rear setbacks. (Ord. No. 19-18, § 5, 10-16-18)
  3. Buildings over two stories in height are subject to additional setback requirements in order to ensure architectural articulation and reduce the impact of taller building heights. (Ord. No. 19-18, § 5, 10-16-18; Ord. No. 20-21, § 6, 12-7-21)
    - a. Front and rear setbacks above the third story are 20 feet minimum. (Ord. No. 20-21, § 6, 12-7-21)

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- b. With approval from the SPRAB or HPB, building entries, lobbies, and vertical circulation areas located above the second story may not be required to increase the setback to 20 feet, if configured as tower elements determined to be consistent with the Delray Beach Architectural Design Guidelines. (Ord. No. 20-21, § 6, 12-7-21)
      - c. In the South Pairs Neighborhood Sub-district, rear setbacks above the second story are 20 feet minimum for buildings located either along SE 7<sup>th</sup> Avenue or the alley between SE 4<sup>th</sup> Avenue and SE 5<sup>th</sup> Avenue. (Ord. No. 20-21, § 6, 12-7-21)
  4. Where the rear or side of a property abuts a residential zoning district with a height limitation of 35 feet without at least 30 feet of separation between the properties, such as a street, railroad, waterway, park, or other public open space; the following shall apply: (Ord. No. 19-18, § 5, 10-16-18; Ord. No. 26-21, § 5, 8-10-21)
    - a. For buildings or portions of buildings three stories or less in height, a minimum side set back of ten feet from the property line shall be provided.
    - b. At the top of the third story, minimum side and rear building setbacks of 30 feet shall be provided from the property line for the portion of the building that is over three stories in height.
    - c. A solid finished masonry wall six feet in height, or a continuous hedge at least four and one-half feet in height at the time of installation, shall be located inside and adjacent to the portion of the boundary line of the CBD-zoned property which directly abuts the residentially zoned property. Walkways and other pedestrian or bicycle connections shall be placed through the wall or hedge if they provide links identified on any adopted bicycle and pedestrian master plan or if SPRAB or HPB determines they would promote desirable connectivity between properties. (Ord. No. 26-21, § 5, 8-10-21)
  5. Minimum building frontage requirements for Primary and Secondary Streets: (Ord. No. 26-21, § 5, 8-10-21)
    - a. On Primary Streets in the Central Core, Beach, and West Atlantic Neighborhood Sub-districts, the minimum building frontage is 75 percent. (Ord. No. 26-21, § 5, 8-10-21)
    - b. On Primary Streets in the Railroad Corridor Sub-district, minimum building frontage is not required. (Ord. No. 26-21, § 5, 8-10-21)
    - c. On Primary Streets in the South Pairs Neighborhood Sub-district, the minimum building frontage is 60 percent. (Ord. No. 20-21, § 6, 12-7-21)
    - d. On Secondary streets in all sub-districts, minimum building frontage is not required. (Ord. No. 26-21, § 5, 8-10-21; Ord. No. 20-21, § 6, 12-7-21)
  6. Buildings with more than 250 feet of street frontage shall provide a pedestrian/bicycle passageway at least ten feet wide connecting rear alleys and/or parking to the public sidewalk The passageway elevation(s) shall have storefront windows with a base between nine inches and three feet high with transparent glazed windows extending to at least eight feet high for 50 percent of the length of the wall. (Ord. No. 19-18, § 5, 10-16-18)
  7. These requirements shall not apply to any part of an underground parking facility located below grade. (Ord. No. 10-20, § 3, 9-22-20)

<b>Table 4.4.13(C) Dimensional Requirements by CBD Sub-district</b>						
	<b>Central Core</b>	<b>Railroad Corridor</b>	<b>Beach</b>	<b>West Atlantic Neighborhood</b>	<b>South Pairs Neighborhood</b>	
<b>Lot Size</b>						
Lot Width	20 ft. min.	20 ft. min.	20 ft. min.	20 ft. min.	20 ft. min.	
Lot Area	2,000 sf. min.	2000 sf. min.	2,000 sf. min.	2000 sf. min.	2,000 sf. min.	
<b>Building Placement</b>						
<b>A</b>	Front Setback <sup>1</sup>	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. Secondary Streets: 10 ft. min./15 ft. max.
<b>B</b>	Side Setback <sup>1</sup>	0 ft. or 5 ft. min. <sup>2</sup>	0 ft. or 5 ft. min. <sup>2</sup>	0 ft. or 5 ft. min. <sup>2</sup>	0 ft. or 5 ft. min. <sup>2</sup>	0 ft. or 5 ft. min. <sup>2</sup>
<b>C</b>	Rear Setback	10 ft. min.	10 ft. min.	10 ft. min.	10 ft. min.	10 ft. min. 20 ft. min. above the 2 <sup>nd</sup> Story <sup>4</sup>
<b>B</b> <b>C</b>	Side Setback Abutting Res. District; 1 <sup>st</sup> to 3 <sup>rd</sup> Story	10 ft. min.	10 ft. min.	10 ft. min.	10 ft. min.	10 ft. min.
<b>B</b> <b>C</b>	Side/Rear Setback Abutting Res. District Above 3 <sup>rd</sup> Story	30 ft. min.	30 ft. min.	30 ft. min.	30 ft. min.	30 ft. min.
<b>D</b>	Front Setbacks Above 3 <sup>rd</sup> Story <sup>1</sup>	20 ft. min.	20 ft. min.	20 ft. min.	20 ft. min.	20 ft. min.
<b>E</b>	Building Frontage Required on Primary Streets	75% min./100% max.	N/A	75% min./100% max.	75% min/100% max.	60% min/100% max.
<b>Building Height</b>						

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 West Atl. Neigh. Limited Height Area	N/A	N/A	N/A	3 stories and 35 ft.	N/A
Max. Building Height in South Pairs Neigh. Limited Height Area	N/A	N/A	N/A	N/A	4 Stories and 48 ft.
Max. Height outside of the Limited Height Areas	4 Stories and 54 ft.	4 Stories and 54 ft. north of NE 2 <sup>nd</sup> Street, 5 stories and 54 ft. south of SE 2 <sup>nd</sup> Street	4 Stories and 54 ft.	4 Stories and 54 ft.	4 Stories and 54 ft.
<b>Density</b>					
Density	30 du/ac	30 du/ac <sup>3</sup>	12 du/ac	12 du/ac <sup>3</sup>	12 du/ac <sup>3</sup>
<b>Civic Open Space Requirement (See Section 4.4.13(G))</b>					
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"

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

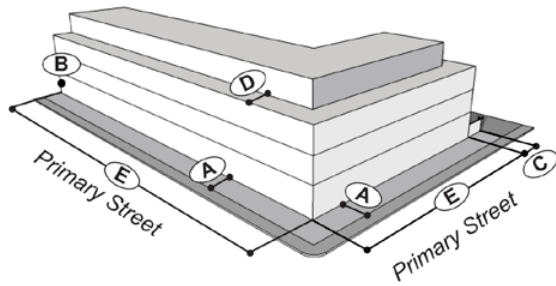
<sup>2</sup> See Section 4.4.13(D)(1)(b)(2).

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

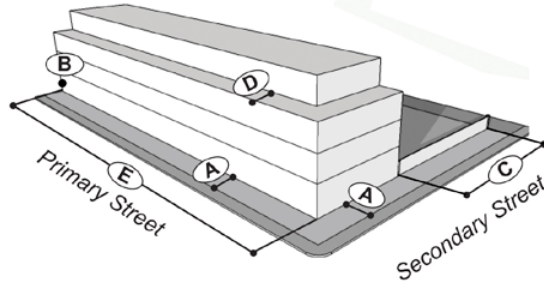
<sup>4</sup> See Section 4.4.13(D) for additional setback standards.

(Ord. No. 19-18, § 5, 10-16-18; Ord. No. 07-20, § 7, 5-19-20; Ord. No. 03-21, § 4, 3-2-21; Ord. No. 20-21, § 6, 12-7-21)

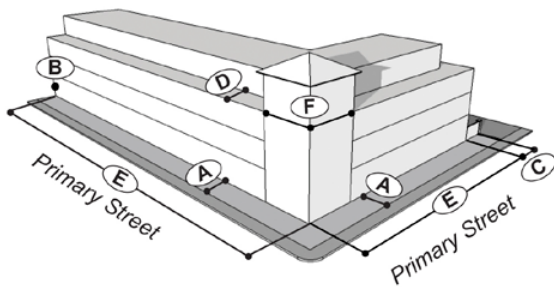
Figure 4.4.13-D-4 Building Placement and Configuration and Street Types



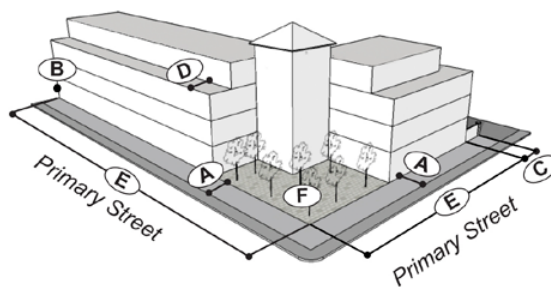
- A Front Setback & Sides Facing Streets
- B Interior Side Setback
- C Rear Setback
- D Front Setback Above 3rd Story
- E Required Building Frontage



- A Front Setback & Sides Facing Streets
- B Interior Side Setback
- C Rear Setback
- D Front Setback Above 3rd Story
- E Required Building Frontage



- A Front Setback & Sides Facing Streets
- B Side Setback
- C Rear Setback
- D Front Setback Above 3rd Story
- E Required Building Frontage
- F Setback Relief Granted by SPRAB for Tower Element



- A Front Setback & Sides Facing Streets
- B Side Setback
- C Rear Setback
- D Front Setback Above 3rd Story
- E Required Building Frontage
- F Civic Open Space

(Ord. No. 26-21, § 5, 8-10-21)

(E) **Frontage standards.** Frontage Standards define architecture and design components for the entrance(s) to buildings and the area between building facades and streets. Building setbacks and other development standards are coordinated with street cross-sections to ensure a superior public realm results, improving both the overall visual appearance and multi-modal uses of downtown streets.

(1) **Frontage standards and allowable uses.** The use of the ground story is an important factor in streetscape design and appropriate frontage types. For the purposes of Frontage Standards, unless

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otherwise specified, residential uses are single-family homes, townhomes, multi-family residential dwellings, assisted living facilities that do not comport with the definition of "community residence", nursing homes, continuing care facilities, community residences, and large family childcare homes and live/work uses. All other uses are considered to be "commercial uses" for the purposes of this section. (Ord. No. 25-17, § 23, 7-18-17; Ord. No. 19-18, § 6, 10-16-18)

(2) **Streetscape standards.** Front setback areas, which include side setback areas facing streets, shall be detailed to augment public right-of-way design, to establish shaded, continuous routes for pedestrians, and to organize landscaping and other elements to ensure a superior public realm.

(a) **Minimum Streetscape Width.** The combination of public sidewalk (located within the right-of-way) and hardscape (located in front setback areas) shall provide a minimum streetscape area no less than 15 feet in width, measured from the back of curb. The streetscape area shall be organized as follows: (Ord. No. 26-21, § 6, 8-10-21)

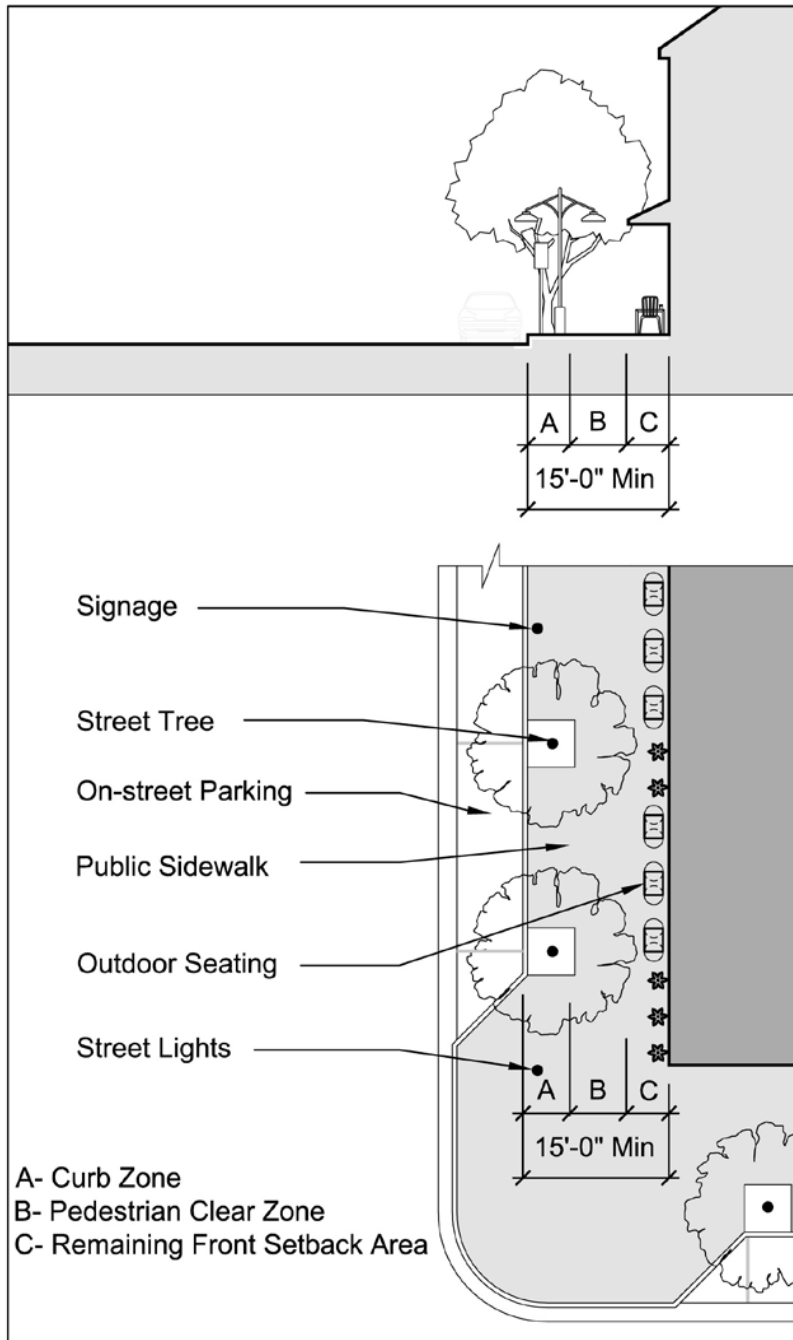
1. **Curb zone.** The curb zone shall be at least four feet wide, measured from the back of curb to the pedestrian clear zone. This zone accommodates street trees and public infrastructure needs such as utility poles, street lights, street signs, parking meters, etc. These elements shall be located as close to the curb as possible; signs and parking meters shall be consolidated as much as possible. Space for pedestrian use is also accommodated in the curb zone. See Figures 4.4.13-E-1 and 4.4.13-E-2 (Ord. No. 19-18, § 6, 10-16-18; Ord. No. 26-21, § 6, 8-10-21)
2. **Pedestrian clear zone.** A continuous pedestrian clear zone shall be provided on all streetscapes (See Figures 4.4.13-E-1 and 4.4.13-E-2). Any portion of the pedestrian clear zone within the front setback area shall be improved as an extension of the public sidewalk and shall match the public sidewalk in design and material, providing a seamless physical transition. A sidewalk easement, in a form acceptable to the City Attorney, over any portion of the pedestrian clear zone located within the front setback shall be granted to the City. The property owner shall also be required to enter into a maintenance agreement, in a form acceptable to the City Attorney, requiring the property owner to be responsible for and maintain any improvements made or installed by the owner to meet the requirements of this section. The sidewalk easement and maintenance agreement require City Commission approval subsequent to site plan approval and shall be recorded prior to site plan certification. (Ord. No. 19-18, § 6, 10-16-18; Ord. No. 26-21, § 6, 8-10-21; Ord. No. 20-21, § 7, 12-7-21)
  - a. The minimum width of the pedestrian clear zone in the Central Core, Beach, West Atlantic Neighborhood and Railroad Corridor Sub-districts is six feet. (Ord. No. 20-21, § 7, 12-7-21)
  - b. The minimum width of the pedestrian clear zone on Primary Streets in the South Pairs Neighborhood Sub-district is 10 feet and the minimum width of the pedestrian clear zone on all other streets in the Sub-district is six feet. (Ord. No. 20-21, § 7, 12-7-21)
3. **Remaining front setback area.** Any remaining front setback area within the 15-foot wide minimum streetscape shall be detailed appropriately for the ground story use of the building (See Figures 4.4.13-E-1 and 4.4.13-E-2): (Ord. No. 26-21, § 6, 8-10-21)
  - a. **Commercial uses.** Buildings with retail or commercial uses in the ground story shall detail and design any remaining front setback area within the 15-foot wide minimum streetscape area using a hardscape design. This portion may be used to accommodate outdoor dining areas, subject to Section 6.3. Landscaping comprised of plants in removable planters, palms and/or ground planting may

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be installed adjacent to the building provided views into storefront windows are not obstructed. (Ord. No. 19-18, § 6, 10-16-18)

- b. **Residential or hotel uses.** Buildings with residential or hotel uses in the ground story shall detail and design any remaining front setback area within the 15-foot wide minimum streetscape area using hardscape or foundation planting landscaping. The encroachment of porches or stoops in this area may be permitted, pursuant to Section 4.4.13(E)(4). (Ord. No. 26-21, § 6, 8-10-21)
- (b) **Street trees.** Street trees are intended to provide a shaded environment for the pedestrian, provide a physical separation between pedestrians and vehicles, improve the overall visual appearance of the street, and reduce urban heat island effects. (Ord. No. 19-18, § 6, 10-16-18)
1. All new construction, relocation of a building, or addition equal to or greater than 20 percent of the gross floor area of an existing building shall install street trees at the time of development. Street trees shall be a canopy species, planted in the public right-of-way directly in front of the property line(s), uniformly spaced no greater than 30 feet on center. Spacing of trees may only exceed 30 feet in order to accommodate curb cuts, fire hydrants, utilities, existing trees, and other infrastructure elements. Palm varieties may be used at corners, crosswalks, or to accent building entrances and may be permitted in lieu of shade trees when physical conditions may prevent the proper growth of shade trees, as determined by the Development Services Director. Consistency in street tree species shall be established on both sides of the street along each block. The first to develop shall establish the species with approval from the Development Services Director. (Ord. No. 19-18, § 6, 10-16-18; Ord. No. 26-21, § 6, 8-10-21)
  2. Street trees shall be located in the curb zone of the streetscape to separate pedestrians from vehicular lanes and to provide room for tree canopies. Street trees may be planted in planting strips, landscaped planters or tree grates with approval from the Development Services Director. (Ord. No. 19-18, § 6, 10-16-18; Ord. No. 26-21, § 6, 8-10-21)
  3. All trees shall be Florida Grade #1 or better and satisfy the following standards at the time of planting:
    - a. Canopy species: Minimum 14 feet in height with a clear trunk space of six feet and a spread of no less than eight feet.
    - b. Palm trees: Minimum 18 feet in height, with a clear trunk space of eight feet.
  4. In the event that site constraints such as existing utility easements, infrastructure, or right-of-way constraints prevent the installation of required street trees, the Development Services Director may approve a different organization of the curb and pedestrian clear zones. Additional elements such as removable planters of small palms and shrubs, vines or seasonal flowers may be required. In addition, the building shall provide devices such as awnings or roof overhangs to establish a shaded pedestrian environment. (Ord. No. 19-18, § 6, 10-16-18; Ord. No. 26-21, § 6, 8-10-21)
  5. The property owner shall be required to enter into a maintenance agreement, in a form acceptable to the City Attorney, requiring the property owner to be responsible for and maintain any tree grates, irrigation, and landscaping installed by the property owner to meet the requirements of this section.
  6. For those properties where street trees exist at the time of site plan approval, the property owner shall either provide the required street trees in another location on-site or pay into the Tree Trust Fund, in accordance with the fee schedule in Section 4.6.19(E)(5)(d). (Ord. No. 19-18, § 6, 10-16-18)

Figure 4.4.13-E-1 Commercial Use Streetscape

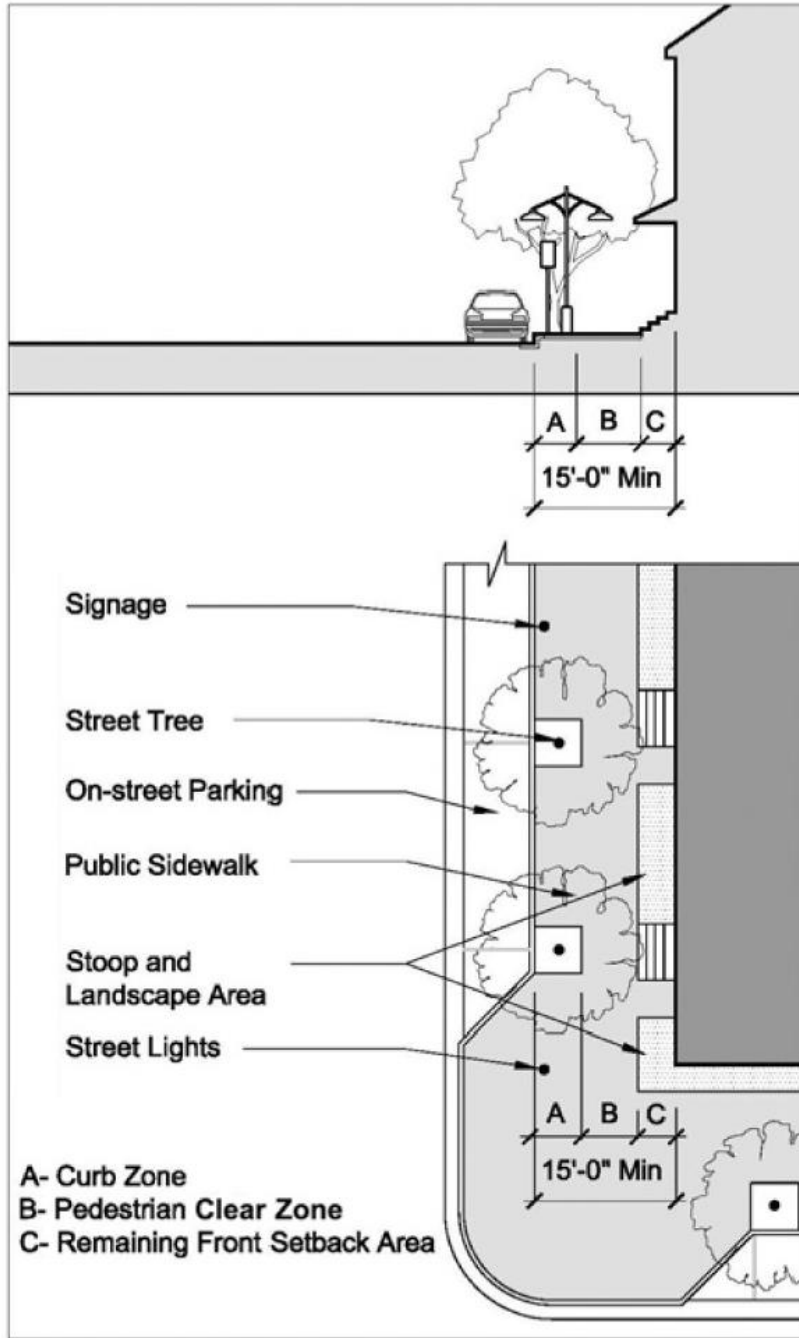


(Ord. No. 26-21, § 6, 8-10-21)

(Supp. No. 15)

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Figure 4.4.13-E-2 Residential Use Streetscape



(Ord. No. 26-21, § 6, 8-10-21)

- (3) **Building entrances.** The main entrance to every building shall be accessible directly from and face a public right-of-way or civic open space. The main entrance(s) to ground story commercial space(s) shall be directly from and face a public right-of-way or civic open space. Doors allowing public access shall occur at intervals no greater than 75 feet.

(Supp. No. 15)

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- (4) **Frontage types.** Frontage Types define architectural characteristics for the detailing of building entrances. Seven distinct frontage types have been identified, which are appropriate for different uses. Table 4.4.13 (D) identifies the frontage types appropriate for each use by an "X". Using one or more of frontage types identified is required. [Amd. Ord. 27-15 10/20/15]

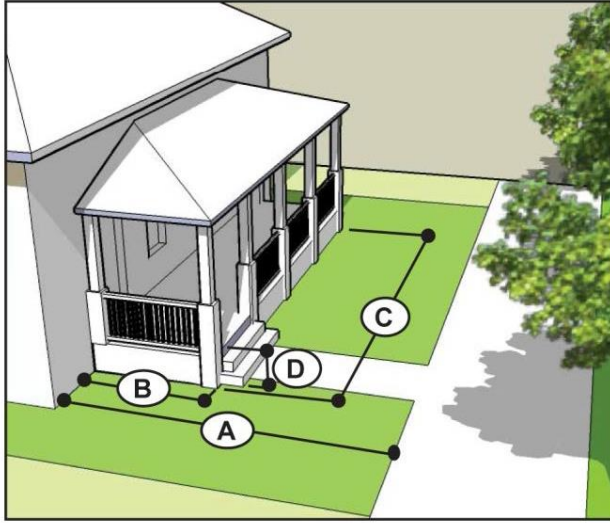
	<i>Porch</i>	<i>Stoop</i>	<i>Bracketed Balcony</i>	<i>Forecourt</i>	<i>Storefront</i>	<i>Arcade/ Colonnade</i>	<i>Lobby Entry</i>
Commercial	X	X	X	X	X	X	X
Live/Work	X	X	X	X	X	X	X
Townhomes and Single-Family Dwelling	X	X	X	X			
All Other Types of Residential	X	X	X	X			X

[Amd. Ord. 27-15 10/20/15] (Ord. No. 19-18, § 6, 10-16-18)

- (a) **Porch.** A porch is an open-air structure attached to a building forming a covered entrance large enough for comfortable use as an outdoor room. Table 4.4.13(E) provides the dimensional requirements and the maximum encroachment allowed, provided porches do not encroach into the minimum required curb zone or pedestrian clear zone as described in Section 4.4.13(E)(2). Figure 4.4.13-E-3 illustrates the dimensional requirements from Table 4.4.13(E). Figure 4.4.13-E-4 provides a character example. (Ord. No. 26-21, § 6, 8-10-21)

		<i>Minimum</i>	<i>Maximum</i>
A	Building Setback	10 ft.	15 ft.
B	Depth	8 ft.	12 ft.
C	Width	40% Facade	100% Facade
D	Floor Elevation	.5 ft.	4 ft.
Allowable Encroachment <sup>1</sup>		-	8 ft.
<sup>1</sup> May not encroach into the curb zone or pedestrian clear zone (See Section 4.4.13(E)(2))			

Figure 4.4.13-E-3 Porch Frontage Type



(Ord. No. 26-21, § 6, 8-10-21)

Figure 4.4.13-E-4 Porch Character Example



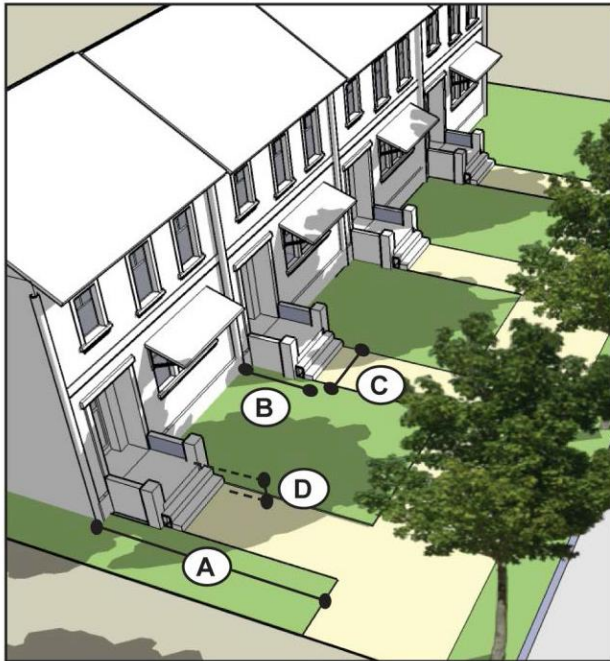
(Ord. No. 26-21, § 6, 8-10-21)

- (b) **Stoop.** A stoop is a small staircase leading to the entrance of a building that may be covered. The elevation of the stoop is necessary to ensure privacy for residential uses in the ground story of buildings. Stoops should provide sufficient space for a person to comfortably pause before entering or after exiting the building. Table 4.4.13(F) provides the dimensional requirements and the maximum encroachment allowed provided stoops do not encroach into the minimum

required curb zone or pedestrian clear zone as described in Section 4.4.13(E)(2). Figure 4.4.13-E-5 illustrates the dimensional requirements from Table 4.4.13(F). Figure 4.4.13-E-6 provides a character example. (Ord. No. 26-21, § 6, 8-10-21)

<b>Table 4.4.13(F) Dimensional Requirements for Stoops</b>			
		<b>Minimum</b>	<b>Maximum</b>
A	Building Setback	10 ft.	15 ft.
B	Depth	5 ft.	8 ft.
C	Width	4 ft.	-
D	Floor Elevation	1 ft.	4 ft.
Allowable Encroachment <sup>1</sup>		-	5 feet
<sup>1</sup> May not encroach into the curb zone or pedestrian clear zone (See Section 4.4.13(E)(2))			

**Figure 4.4.13-E-5 Stoop Frontage Type**



(Ord. No. 26-21, § 6, 8-10-21)

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**Figure 4.4.13-E-6**  
**Stoop Character Example**

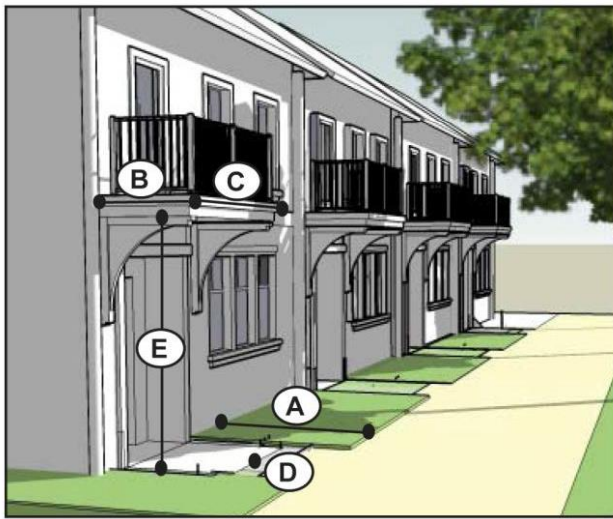


(Ord. No. 26-21, § 6, 8-10-21)

- (c) **Bracketed balcony.** A bracketed balcony is a second-story balcony, located over the main building entry, which provides cover for a person entering or exiting the building, emphasizes the entryway, and creates a semi-public space overlooking the street. The Delray Beach Architectural Design Guidelines provide guidance on balcony detailing. Bracketed balconies are typically associated with buildings with commercial uses in the ground story; however, bracketed balconies may be used with residential uses if combined with a stoop. Figure 4.4.13-E-7 illustrates the dimensional requirements from Table 4.4.13(G). Figure 4.4.13-E-8 provides a character example. (Ord. No. 26-21, § 6, 8-10-21)

<b>Table 4.4.13(G) Dimensional Requirements for Bracketed Balconies</b>			
		<b>Minimum</b>	<b>Maximum</b>
A	Building Setback	10 ft.	15 ft.
B	Depth	-	5 ft.
C	Width	4 ft.	-
D	Floor Elevation	0 ft.	-
Allowable Encroachment		-	5 feet

**Figure 4.4.13-E-7**  
**Bracketed Balcony Frontage Type**



(Ord. No. 26-21, § 6, 8-10-21)

**Figure 4.4.13-E-8**  
**Bracketed Balcony Character Example**



(Ord. No. 26-21, § 6, 8-10-21)

- (d) **Forecourt.** A forecourt is an open area in front of the main building entrance(s) designed as a small garden or plaza. Low walls or balustrades no higher than three feet six inches in height may enclose the forecourt. Forecourt walls are constructed of similar material as the principal building or are composed of a continuous, maintained hedge. A forecourt may afford access to one or more first floor residential dwelling units or incorporate storefronts for commercial uses. The forecourt is suitable for outdoor seating for residents or restaurants. Forecourts are typically associated with multifamily, mixed-use, and commercial buildings. Figure 4.4.13-E-9 illustrates the dimensional requirements from Table 4.4.13(H). Figure 4.4.13-E-10 provides a character example. (Ord. No. 26-21, § 6, 8-10-21)

<b>Table 4.4.13(H) Dimensional Requirements for Forecourts</b>			
		<b>Minimum</b>	<b>Maximum</b>
A	Building Setback	10 ft.	15 ft.
B	Depth	10 ft.	20 ft.
C	Width	20 ft.	50% of Facade
D	Floor Elevation	0 ft.	3 ft.
Allowable Encroachment		Not Applicable	

Figure 4.4.13-E-9 Forecourt Frontage Type



(Ord. No. 26-21, § 6, 8-10-21)

Figure 4.4.13-E-10  
Forecourt Character Example



(Ord. No. 26-21, § 6, 8-10-21)

- (e) **Storefront.** The storefront is a frontage type along the sidewalk level of the ground story, typically associated with commercial uses. Storefronts are shaded by awnings or arcades. (Ord. No. 19-18, § 6, 10-16-18; Ord. No. 26-21, § 6, 8-10-21)

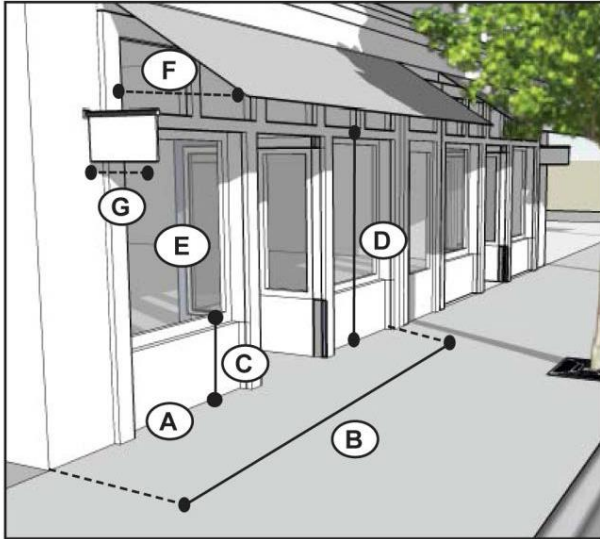
1. **Storefront dimensions.** Table 4.4.13(l) provides the dimensional requirements and the maximum allowable encroachment permitted. Figure 4.4.13-E-11 illustrates the dimensional requirements and Figure 4.4.13-E-12 provides a character example. (Ord. No. 26-21, § 6, 8-10-21)

- a. Storefronts shall be directly accessible from sidewalks; storefront doors may be recessed up to ten feet. [Amd. Ord. 28-15 12/08/15]

<b>Table 4.4.13(l) Dimensional Requirements for Storefronts</b>			
		<b>Minimum</b>	<b>Maximum</b>
A	Building Setback	10 ft.	15 ft.
B	Store Width	N/A	75 ft. on Required Retail Streets
C	Storefront Base	9 in.	
D	Glazing Height	8 ft.	-
E	Required Openings	80%	-
<b>Maximum Allowable Encroachment of Elements in All Districts</b>			
F	Awning Projection	5 feet	-
G	Projecting Sign	N/A	3 feet

[Amd. Ord. 28-15 12/08/15] (Ord. No. 19-18, § 6, 10-16-18)

**Figure 4.4.13-E-11 Storefront Frontage Type**



(Ord. No. 26-21, § 6, 8-10-21)

**Figure 4.4.13-E-12**  
**Storefront Character Example**



(Ord. No. 26-21, § 6, 8-10-21)

- b. Storefront (window and door) openings shall extend along at least 80 percent of the width of the facade of the commercial space, measured by the sum of the widths of the rough openings. [Amd. Ord. 28-15 12/08/15] (Ord. No. 19-18, § 6, 10-16-18)
- c. Storefront windows shall have a base nine inches to three feet high. (Ord. No. 19-18, § 6, 10-16-18)
- d. Transparent glazed windows shall extend from the base to at least eight feet in height as measured from sidewalk grade adjacent to the building. Transparent means non-solar, non-mirrored, glass with a light transmission reduction of no more than 20 percent. (Ord. No. 19-18, § 6, 10-16-18)
- e. Metal storefront window and door frames shall have powder-coated finishes. (Ord. No. 19-18, § 6, 10-16-18)

**2. Storefront elements.**

- a. Storefronts shall have either awnings or an arcade. Awnings shall project a minimum of five feet from the building facade. Arcades shall meet the Arcade frontage standards in Section 4.4.13.(E)(4)(f). (Ord. No. 19-18, § 6, 10-16-18)
- b. Awnings shall be consistent with the building's architecture and proportionate to the façade opening shape and size. Except for curved awnings, all awnings shall be sloped 15 to 35 degrees from the horizontal plane. Valances shall be no more than 12 inches long. Internally illuminated or plastic awnings are prohibited.
- c. Storefronts may be combined with forecourts, porches, or arcades. [Amd. Ord. 28-15 12/08/15]

(f) **Arcade.** An Arcade is a covered, unglazed, linear hallway attached to the front of a building, supported by columns or pillars. The arcade extends into the public right-of-way, over the streetscape area, creating a shaded environment ideal for pedestrians. This frontage type is typically associated with commercial uses.

1. **Arcade dimensions.** Table 4.4.13(J) provides the dimensional requirements and the maximum allowable encroachment permitted. Figure 4.4.13-E-13 illustrates the dimensional requirements and Figure 4.4.13-E-14 provides a character example. (Ord. No. 26-21, § 6, 8-10-21)

<b>Table 4.4.13(J) Dimensional Requirements for Arcade</b>			
		<b>Minimum</b>	<b>Maximum</b>
A	Building Setback	Varies	15 ft.
B	Arcade Depth	10 ft.	20 ft.
C	Arcade Height	10 ft.	20 ft.
D	Column/Pillar to Face of Curb	2 ft.	5 ft.
E	Column/Pillar Width and Depth	1 ft.	-
<b>Maximum Allowable Encroachment of Elements in All Districts</b>			
F	Arcade	varies by street	

(Ord. No. 19-18, § 6, 10-16-18)

**Figure 4.4.13-E-13 Arcade Frontage Type**



(Ord. No. 26-21, § 6, 8-10-21)

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**Figure 4.4.13-E-14 Arcade Character Example**



(Ord. No. 26-21, § 6, 8-10-21)

- a. Arcades shall extend over the sidewalk. A sidewalk should not run parallel to an arcade, allowing pedestrians to bypass storefront windows.
- b. Use of the arcade on local streets requires entering into a right-of-way agreement, in a form acceptable to the City Attorney, with the City. The City Commission shall determine in its sole and absolute discretion whether to approve or deny an agreement, which shall be based upon a determination of whether the arcade is in the best interest of the general public. This agreement shall establish liability, indemnification, and insurance responsibilities in a form acceptable to the City. For County, State, and Federal roads, agreements with the appropriate agencies and the City shall be required. (Ord. No. 19-18, § 6, 10-16-18)
- c. Arcades shall have a clear depth between the interior face of the columns and the building facade of at least ten feet and no more than 20 feet. If the distance between the property line and the face of curb is not sufficient to accommodate the minimum depth of ten feet required for an arcade, or, if the distance between the property line and the face of curb is deep enough that using the required building setback results in an arcade with a clear depth greater than 12 feet, the front setback may be administratively adjusted by the Development Services Director, taking into consideration the ultimate location of the face of curb. If determined necessary by the City, the property owner shall grant a pedestrian and underground utility easement to the City, in a form acceptable to the City Attorney, on the applicant's property to reach ten feet of clear depth. (Ord. No. 26-21, § 6, 8-10-21)
- d. Arcade ceilings shall be designed with coffers or exposed beams extruding at least six inches, aligned with columns or pillars. Arcades shall have a clear height above the sidewalk of at least ten feet and no more than 20 feet.

- e. Support columns or pillars shall be at least 12 inches wide and deep. See Section 4.6.18(B)(14)(iii). Columns and pillars shall be placed two to five feet from the face of the curb. (Ord. No. 19-18, § 6, 10-16-18)
- f. The arcade area extending over the public right-of-way may contain a second story or incorporate roof terraces; additional stories are not permitted.

**2. Arcade elements**

- a. Arcades shall be combined with storefronts.
- b. The height and proportions of the arcade shall be consistent with the architecture and proportions of the building to which it is attached.
- c. Potted landscaping or ground planting shall be provided between the face of the columns or pillars and the face of curb.
- d. Lighting shall be incorporated into arcades to meet CPTED principles.

(g) **Lobby entry.** The lobby entry is a frontage type that emphasizes the main entrance to the reception area of a building with a significant architectural feature. The lobby entry type provides an integral architectural element that provides a sheltered area to congregate in front of the main entrance to a commercial, mixed-use, multi-family, or civic building. The entry may be at sidewalk level or elevated. [Amd. Ord. 27-15 10/20/15]

1. **Lobby entry dimensions.** Table 4.4.13(K) provides the dimensional requirements and the maximum allowable encroachment permitted for certain elements. Figures 4.4.13-E-15 and 4.4.13-E-16 provide character examples. (Ord. No. 26-21, § 6, 8-10-21)

- a. Lobby entry features shall be consistent with the architecture of building and encroaching elements shall be harmonious in scale and proportion to the building.
- b. Lobby entries shall be directly accessible from the sidewalk and may be recessed up to ten feet.
- c. Overhangs or awnings may encroach into the front setback area up to ten feet.
- d. Columns, pilasters, and posts may encroach into the front setback up to five feet.

<b>Table 4.4.13(K) Dimensional Requirements for Lobby Entry</b>			
		<b>Minimum</b>	<b>Maximum</b>
A	Building Setback	10 ft.	15 ft.
B	Lobby Entry Width	N/A	N/A
<b>Maximum Allowable Encroachment of Elements in All Districts</b>			
C	Overhang/Awning Projection	N/A	10 ft.
D	Columns, Pilaster, Posts	N/A	5 ft.

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**Figure 4.4.13-E-15 Lobby Entry Character  
Example 1**



(Ord. No. 26-21, § 6, 8-10-21)

**Figure 4.4.13-E-16 Lobby Entry Character  
Example 2**

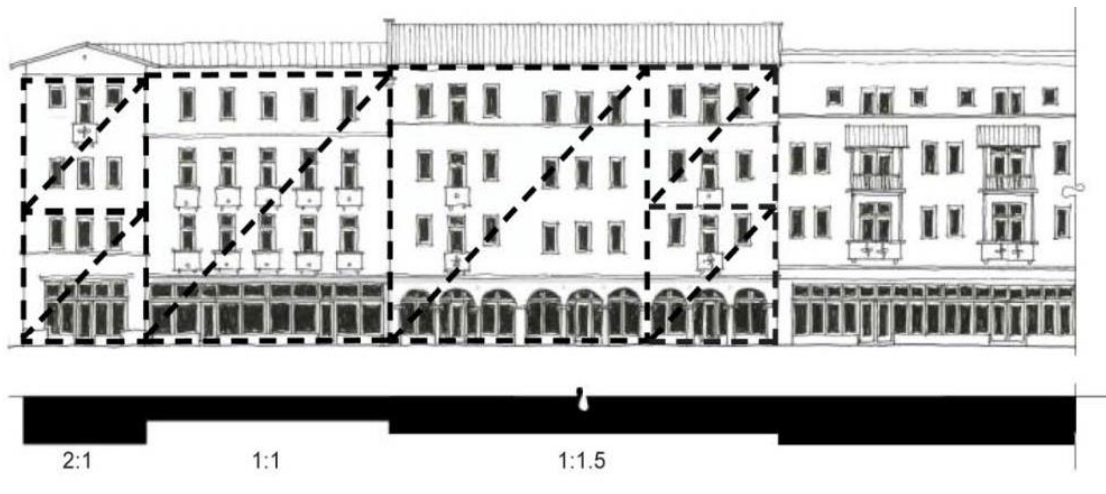


(Ord. No. 26-21, § 6, 8-10-21)

(F) **Architectural standards.** To ensure high quality architecture in the downtown area, the following architectural standards apply to all buildings in the Central Business District Sub-districts and in the OSSHAD with CBD Overlay. In addition to the standards in Section 4.6.18, the following standards apply in all CBD Sub-districts. [Amd. Ord. 28-15 12/08/15]

- (1) **Required standards.** In addition to the standards in this section, all buildings shall follow the Delray Beach Architectural Design Guidelines. Properties located within a Historic District or Individually Designated Sites, as listed on the Local Register of Historic Places in Section 4.5.1(I), shall also comply with the Visual Compatibility Standards of Section 4.5.1(E)(7). [Amd. Ord. 28-15 12/08/15]
- (2) **Façade composition.** [Amd. Ord. 28-15 12/08/15]
  - (a) **Building Articulations.** Buildings articulations that respond to the site's unique urban condition, such as but limited to, locations on corners, near public open spaces, terminating the visual axis of a street, and/or that emphasize main building entries, shall be clearly expressed in the design. [Amd. Ord. 28-15 12/08/15]
    1. Building articulations in the form of a change in building height and building placement shall be incorporated so that building façade proportions do not exceed height to width ratios of 3:1 or 1:2 (Figure 4.4.13-F-1). [Amd. Ord. 28-15 12/08/15] (Ord. No. 19-18, § 7, 10-16-18; Ord. No. 26-21, § 7, 8-10-21)
    2. Building articulations shall be reinforced by changes in roof design, fenestration patterns, or architectural elements. [Amd. Ord. 28-15 12/08/15]

**Figure 4.4.13-F-1 Façade Articulation Proportions**

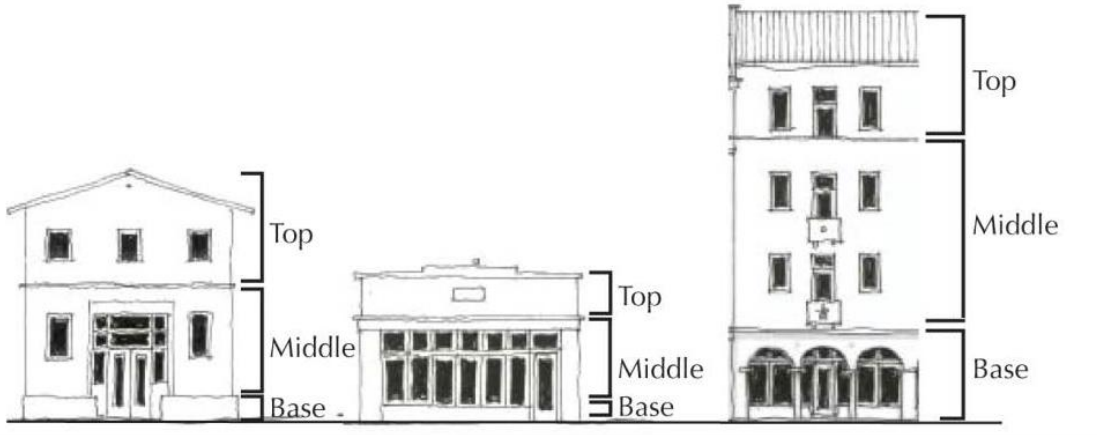


(Ord. No. 19-18, § 7, 10-16-18; Ord. No. 26-21, § 7, 8-10-21)

- (b) **Tripartite composition (base, middle, top).** All buildings shall have a clearly expressed base, middle, and top in the façade design. [Amd. Ord. 28-15 12/08/15]
  1. **Base.** The building base demonstrates the building is solidly anchored to the ground. The base may be configured in a number of ways, including, but not limited to the following: [Amd. Ord. 28-15 12/08/15]

- a. A thickening of the lower portion of the wall surface, accompanied by a change in material or color; [Amd. Ord. 28-15 12/08/15]
- b. the base of a storefront frontage type; or [Amd. Ord. 28-15 12/08/15]
- c. the first story of buildings three or more stories tall, demarcated by a cornice or molding. [Amd. Ord. 28-15 12/08/15]

**Figure 4.4.13-F-2 Examples of Base, Middle, Top Configurations**



(Ord. No. 26-21, § 7, 8-10-21)

- 2. **Top.** The building top may be demonstrated in a number of ways, including, but not limited to the following: [Amd. Ord. 28-15 12/08/15]
  - a. a change in fenestration patterns; [Amd. Ord. 28-15 12/08/15]
  - b. placement of architectural elements such as balconies, cornice line, and moldings; [Amd. Ord. 28-15 12/08/15]
  - c. the parapet or roofline in buildings one to three stories tall; or [Amd. Ord. 28-15 12/08/15]
  - d. a setback at the top story. [Amd. Ord. 28-15 12/08/15]
- (c) **Visual screenings.** Building facades shall be designed to visually screen "Secondary Street" uses (as identified in Table 4.4.13 (A)) and large expanses of blank walls. Appropriate façade design to screen these uses incorporates the consistent use of materials and construction assemblies, fenestration patterns, architectural articulation, and features such as, but not limited to, the application of architectural screens, louvers, or glass. In addition, at the sidewalk level, vegetated surfaces and planters or window display shall be incorporated. Paint, faux treatments, scoring, construction joints, lighting, and material projections less than two inches are permitted, but do not fulfill the façade design requirements. [Amd. Ord. 28-15 12/08/15]

**Figure 4.4.13-F-3**  
**Character Examples for Building Façade Screening Secondary Street Uses**



*The Clematis Street garage utilizes consistent building materials with fenestration patterns to establish an attractive façade screening the parking levels over the retail space.*



*The Lincoln Theater has the building circulation located along the streets, behind an architectural glass façade, screening the large expanses of blank walls within the movie theater.*

(Ord. No. 26-21, § 7, 8-10-21)

- (d) **Façade composition compliance.** All development submittals shall provide diagrams and/or documentation to illustrate compliance with the requirements of this Section which includes Building Articulation, Tripartite Composition, and Visual Screening. Additional analysis demonstrating compliance may be required by the Development Services Director at any point in the process. [Amd. Ord. 28-15 12/08/15] (Ord. No. 26-21, § 7, 8-10-21)
- (3) **Appropriate architectural styles.** The adopted "Delray Beach Central Business District Architectural Design Guidelines", as amended, identifies architectural styles as appropriate for downtown Delray Beach, based on historical precedent, climate, and building scale. Defining characteristics and character examples are provided for each of the styles as guidance. [Amd. Ord. 28-15 12/08/15] (Ord. No. 19-18, § 7, 10-16-18)
  - (a) **Permitted architectural styles.** One of the architectural styles shall be identified on permit application drawings and the building design shall reflect the defining characteristics outlined in the "Delray Beach Central Business District Architectural Design Guidelines" document. [Amd. Ord. 28-15 12/08/15] (Ord. No. 19-18, § 7, 10-16-18)
  - (b) Mixing of styles is not permitted; however, projects comprised of multiple buildings may use more than one style, provided each building uses one style (e.g. an Anglo-Caribbean building next to a Florida Vernacular building), and façade portions of long buildings may use different styles provided each portion uses one style. [Amd. Ord. 28-15 12/08/15]
  - (c) **Other Architectural Styles.** Elevations introducing a new style may be utilized with City Commission approval, via recommendation by SPRAB or HPB, as applicable. City Commission approval is required prior to consideration of the site plan by SPRAB or HPB. Applicants shall provide the following: [Amd. Ord. 28-15 12/08/15] (Ord. No. 19-18, § 7, 10-16-18)
    - 1. A description including images of a documented and substantiated Florida vernacular architecture; [Amd. Ord. 28-15 12/08/15]
    - 2. A written justification of the appropriateness of the style for downtown Delray Beach; and [Amd. Ord. 28-15 12/08/15]

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3. An explanation including graphics demonstrating how the building design follows the proposed style. [Amd. Ord. 28-15 12/08/15]
  - (d) Eclectic combinations of architectural styles may be used for civic buildings or for additions or renovations to existing buildings with City Commission approval, via recommendation by the SPRAB or HPB, as applicable. Applicant shall provide a written justification of the appropriateness of the eclectic combination of styles for downtown Delray Beach. [Amd. Ord. 28-15 12/08/15]
  - (e) Accessory structures such as enclosures used for the screening of mechanical and electrical equipment, loading and service areas, and/or dumpster and recycling areas shall be consistent with the architectural style of the principal building. [Amd. Ord. 28-15 12/08/15]
- (4) **Walls.** [Amd. Ord. 28-15 12/08/15]
- (a) Walls shall have a maximum of two primary materials, excluding windows, doors, accents and trims. The materials shall be appropriate to the architectural style and shall be consistent on all sides of the building. Materials that simulate other materials shall count as separate materials if there is a change in texture, color, or pattern of the finish. [Amd. Ord. 28-15 12/08/15]
  - (b) Materials or patterns not expressly prohibited may be used if consistent with the architectural style of the building. [Amd. Ord. 28-15 12/08/15]
  - (c) Metal curtain walls are permitted only on buildings designed in the Masonry Modern style and shall be limited to 30 percent of the total building exterior elevation. [Amd. Ord. 28-15 12/08/15]
  - (d) **Prohibitions.** [Amd. Ord. 28-15 12/08/15]
    1. Prefabricated and pre-engineered metal wall panels. [Amd. Ord. 28-15 12/08/15]
    2. Metal curtain wall systems with 100 percent glass and metal combination. [Amd. Ord. 28-15 12/08/15]
  - (e) **Treatment of blank walls.** [Amd. Ord. 28-15 12/08/15]
    1. Blank walls shall not exceed a length of 50 feet, or 20 percent of the length of the building facing the street, whichever is less. [Amd. Ord. 28-15 12/08/15]
    2. Blank walls shall receive two or more of the following special design treatments in order to increase pedestrian comfort or create visual interest: [Amd. Ord. 28-15 12/08/15] (Ord. No. 26-21, § 7, 8-10-21)
      - a. Vertical trellis in front of the wall with climbing vines or other plant materials over at least 30 percent of the blank wall surface. [Amd. Ord. 28-15 12/08/15]
      - b. Small setbacks, projections, or indentations with a minimum depth of eight inches, or intervals of material change to break up the wall's surface. [Amd. Ord. 28-15 12/08/15]
      - c. Additional architectural details such as pilasters, medallions, decorative panels or castings, decorative accent tiles, wall-mounted fountains, or public art shall be integrated on any exterior wall to avoid a blank wall appearance. [Amd. Ord. 28-15 12/08/15]
  - (f) A maximum of four base wall colors shall be used for each building, except as required for approved artworks or murals. (Ord. No. 26-21, § 7, 8-10-21)
- (5) **Openings.** [Amd. Ord. 28-15 12/08/15]
- (a) Building façades facing streets or civic open spaces must have transparent windows covering between 20 percent and 75 percent of the wall area of each story as measured between finished

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floors. Transparent means non-solar, non-mirrored glass with a light transmission reduction of no more than 20 percent. [Amd. Ord. 28-15 12/08/15]

- (b) Storefronts are required on all buildings located on streets designated on the Regulating Plan with Required Retail Frontage and on all new retail or restaurant uses. All storefronts shall meet the design requirements in Section 4.4.13(E)(4)(e). [Amd. Ord. 28-15 12/08/15]
  - (c) All public entries, excluding emergency exits, shall be easily identifiable and integrated into the building architecture and use one of the frontage types in Section 4.4.13(E)(4). Each freestanding principal structure shall have a minimum of one clearly defined primary public entrance facing the street. [Amd. Ord. 28-15 12/08/15]
  - (d) Window and door shutters shall be sized to match the dimensions of the wall openings. [Amd. Ord. 28-15 12/08/15]
  - (e) Overhead doors shall be prohibited from facing any adjacent residentially zoned property. Overhead doors shall be oriented away from any adjacent public right-of-way, except where currently existing. [Amd. Ord. 28-15 12/08/15]
  - (f) Garage doors, entrances and exits with street frontage shall be designed to have a decorative appearance consistent with the overall architectural composition of the project. [Amd. Ord. 28-15 12/08/15]
- (6) **Roofs.** [Amd. Ord. 28-15 12/08/15]
- (a) Roof eaves above pedestrian walkways must be guttered to promote a pedestrian friendly environment. Plastic gutters are prohibited. [Amd. Ord. 28-15 12/08/15]
  - (b) Roof types and roofing materials must be consistent with the architectural style of the building. [Amd. Ord. 28-15 12/08/15]
  - (c) Flat roofs shall be screened from adjacent properties and streets with decorative parapets. The maximum height of the parapet wall shall be six feet in height or sufficient height to screen all roof mounted equipment, whichever is greater, measured from the top of the roof deck to the top of the parapet wall. Exception to the height requirements shall be pursuant to Section 4.3.4(J)(3). [Amd. Ord. 28-15 12/08/15]
  - (d) Roof mounted electrical, mechanical, air conditioning, and communication equipment shall be completely screened from adjacent properties and streets. [Amd. Ord. 28-15 12/08/15]
  - (e) Rooftop terraces and uses are regulated in 4.4.13(C)(4)(h). (Ord. No. 19-18, § 7, 10-16-18)
  - (f) Prohibitions. [Amd. Ord. 28-15 12/08/15] (Ord. No. 19-18, § 7, 10-16-18)
    - 1. Flat asphalt shingles. Architectural 3-tab asphalt shingles with a minimum 30-year warranty are permitted. [Amd. Ord. 28-15 12/08/15]
    - 2. Plastic gutters. [Amd. Ord. 28-15 12/08/15]
- (7) **Elements.** [Amd. Ord. 28-15 12/08/15]
- (a) Cornices and moldings shall extend a minimum of two inches from the surface plane of the building wall. Cornices and moldings are continuous façade elements and may not be covered by awnings or signs. Significant architectural elements such as columns, pilasters, and towers may interrupt moldings. [Amd. Ord. 28-15 12/08/15]
  - (b) Arcades, porches, trellises, loggias and balconies. [Amd. Ord. 28-15 12/08/15]
    - 1. Materials for arcades, porches, trellises, loggias and balconies shall be consistent with the architectural style of the principal building. [Amd. Ord. 28-15 12/08/15]

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2. The spacing between columns, pillars, and posts shall have a height to width or width to height ratio of 1:1, 2:1, or 2:3 and shall be consistent with the building's architectural style. The maximum spacing between columns, from centerline to centerline shall be 24 feet. [Amd. Ord. 28-15 12/08/15]
  3. Columns, pillars and posts shall be appropriate for the architectural style of the building. Masonry columns or pillars shall be a minimum of 12 inches in width or depth. Wood posts shall be a minimum six inches in size, width, or depth. [Amd. Ord. 28-15 12/08/15]
  4. Arches over columns that are part of an arcade shall have no less than 8 inches in depth. [Amd. Ord. 28-15 12/08/15]
- (c) Awnings shall be consistent with the building's architecture and façade opening shape. Awnings shall project a minimum of three feet from the building facade. Except for curved awnings, all awnings shall be sloped 15 to 35 degrees from the horizontal plane. Valances shall be no more than 12 inches long. Internally illuminated or plastic awnings are prohibited. Any names or logos printed on awnings shall be counted as square footage against the overall permitted signage. [Amd. Ord. 28-15 12/08/15]
- (d) A streetwall is required along both Primary and Secondary Streets where there is no building frontage. Where required, streetwalls must be provided as follows: [Amd. Ord. 28-15 12/08/15] (Ord. No. 19-18, § 7, 10-16-18; Ord. No. 26-21, § 7, 8-10-21)
1. Streetwalls located within the front setback shall be three to four feet in height. (Ord. No. 26-21, § 7, 8-10-21)
  2. Streetwalls located in line with a building façade shall be three to six feet in height. (Ord. No. 26-21, § 7, 8-10-21)
  3. Streetwalls shall be composed of either an opaque wall of the same material and color as the building, a metal or wood capped rail fence, or of a continuous, maintained hedge. In addition, one shade tree per 30 lineal feet, uniformly spaced, shall be installed along the length the streetwall. (Ord. No. 26-21, § 7, 8-10-21)
  4. In the South Pairs Neighborhood Sub-district, instead of the streetwall requirement above and the streetscape requirements in Section 4.4.13(E), development adjacent to SE 7<sup>th</sup> Avenue shall provide a solid finished masonry wall along SE 7<sup>th</sup> Avenue at least six feet in height, but not more than eight feet in height, measured from the side with the higher grade. A 10-foot-wide planting strip shall be provided between the wall and the edge of road pavement with a continuous installation of upright cluster palms or hedge bamboo a minimum of 8 feet in height at the time of installation at a spacing whereby the branches are touching at the time of planting. The landscaping shall be planted and maintained to form a continuous, solid, visual screen within a maximum of one year of planting. (Ord. No. 20-21, § 8, 12-7-21)
- (e) Chain link fences are prohibited except within sites containing outdoor recreation uses or facilities such as baseball, tennis, racquetball, etc. in which case they must be appropriately screened with landscaping pursuant to Section 4.6.16. [Amd. Ord. 28-15 12/08/15]
- (f) Mechanical elements and equipment necessary to the operation or maintenance of the building such as, but not limited to, elevator, stair, and mechanical rooms, cooling towers, vent stacks and antennae shall be designed to be integral parts of the overall building design, provide a balanced and graceful silhouette, and ameliorate the visual impact to adjacent buildings. Minor features

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not exceeding one foot in height shall be exempted from this regulation. [Amd. Ord. 28-15 12/08/15] (Ord. No. 26-21, § 7, 8-10-21)<sup>2</sup>

- (g) Miscellaneous free-standing, wall or ground mounted appurtenances such as electrical and gas meters, dumpster/recycling, trash compactors, gas tanks, air conditioning and communication equipment shall be enclosed or screened and integrated into the building's architectural treatment. The appurtenances shall also be prohibited within the front yards. [Amd. Ord. 28-15 12/08/15] (Ord. No. 26-21, § 7, 8-10-21)
  - (h) Prohibitions. [Amd. Ord. 28-15 12/08/15] (Ord. No. 26-21, § 7, 8-10-21)
    - a. Security bars on storefronts or display windows. [Amd. Ord. 28-15 12/08/15]
    - b. Neon or fluorescent lighting, unless incorporated into the architectural concept of the project or public artwork and approved by the Site Plan Review and Appearance Board, the Historic Preservation Board, or Public Arts Advisory Board, as appropriate. An example of this may be a design element associated with an Art Deco project. [Amd. Ord. 28-15 12/08/15] (Ord. No. 26-21, § 7, 8-10-21)
- (8) **Parking garages.** Above ground parking garages shall comply with the architectural requirements of this Section and the following additional requirements: [Amd. Ord. 28-15 12/08/15] (Ord. No. 26-21, § 7, 8-10-21)
- (a) Ramps shall be visually screened from streets and adjacent residential zoning districts and oriented towards the interior of the lot within a project where possible. Ramp profiles shall be hidden on the exterior elevations. [Amd. Ord. 28-15 12/08/15]
  - (b) Roof top parking shall be visually screened with articulated parapet walls or other architectural treatment acceptable to the Site Plan Review and Appearance Board. Exterior lighting shall utilize fixtures provided with cut-off shielding in order to eliminate glare and spillage onto adjacent properties and roadways. [Amd. Ord. 28-15 12/08/15]
  - (c) The openings of the garage shall be designed in a manner that obscures parked vehicles. Decorative architectural elements on the ground floor level shall be designed to accommodate the pedestrian scale. Parking levels above the ground floor shall maintain the same vertical and horizontal articulation or rhythm and incremental appearance established on the ground floor. [Amd. Ord. 28-15 12/08/15]
  - (d) **Setback waiver.** The SPRAB or HPB may grant a waiver from the setback requirements of Section 4.4.13(D) for any portions of the building above three stories to maximize the efficiency of a parking garage, subject to the following requirements: [Amd. Ord. 28-15 12/08/15] (Ord. No. 19-18, § 7, 10-16-18; Ord. No. 26-21, § 7, 8-10-21)
    - 1. The garage or the garage portion of the building elevation provides unified design elements with the main building through the use of similar materials and color, vertical and horizontal elements, and architectural style. [Amd. Ord. 28-15 12/08/15]
    - 2. In OSSHAD and on Secondary Streets in the CBD, a minimum 50 percent of the ground floor perimeter of the garage or the garage portion of the building adjacent to street rights-of-way shall be devoted to window displays or floor area for active uses such as retail stores, personal and business service establishments, entertainment, offices, etc. This number

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<sup>2</sup>Editor's note(s)—Ord. No. 26-21, § 7, adopted August 10, 2021, repealed former subsection (f) and redesignated the existing subsections (g)—(i) as subsections (f)—(h). Former subsection (f) derived from Ord. 28-15, adopted December 08, 2015.

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may be reduced by the Site Plan Review and Appearance Board or the Historic Preservation Board. On Primary Streets in the CBD, the perimeter of the garage or the garage portion of the building adjacent to the street rights-of-way shall be lined by active uses (see Section 4.4.13(C). [Amd. Ord. 28-15 12/08/15]

3. Architectural features shall be incorporated into the facade to mitigate the building's mass and bulk and along portions of the building adjacent to street rights-of-way. [Amd. Ord. 28-15 12/08/15]
  4. In the South Pairs Neighborhood Sub-district, waivers to the setback requirements of Section 4.4.13(D) for parking garages may only be requested for property located between SE 5<sup>th</sup> Avenue and SE 6<sup>th</sup> Avenue. (Ord. No. 20-21, § 8, 12-7-21)
- (9) **Reduction of Urban Heat Islands.** In order to reduce urban heat islands for both roofed and non-roofed areas, the following standards shall apply to building and site design: [Amd. Ord. 28-15 12/08/15]
- (a) **Non-roofed:** Provide shade (within five years) on at least 30 percent of non-roof impervious surface on the side, including parking lots, walkways, plazas, etc.; or use light-colored/high-albedo materials (reflectance of at least 0.3) for 30 percent of the site's non-roofed impervious surfaces; or, use open-grid pavement system (net impervious area of less than 50 percent) for a minimum of 50 percent of the parking lot area. [Amd. Ord. 28-15 12/08/15]
  - (b) **Roofed:** Use Energy Star roof-compliant, high-reflectance and high emissivity roofing (initial reflectance of at least 0.65 and three-year-aged reflectance of at least 0.5 when tested in accordance with ASTM E903 and emissivity of at least 0.9 when tested in accordance with ASTM 4080 for a minimum of 75 percent of the roof surface; or install a "green" (vegetated) roof for at least 50 percent of the roof area. [Amd. Ord. 28-15 12/08/15]
  - (c) **Parking garage roofs:** Provide shade on at least 30 percent (within five years) of any exposed parking on the roof. [Amd. Ord. 28-15 12/08/15]
- (10) **Green building practices.** Cross-ventilation, energy efficiency, and green building design shall be considered for all projects. All development which proposes to build 50,000 square feet or more, in one or more buildings, shall be at a minimum certified as Silver by the United States Green Building Council (USGBC) Leadership in Energy and Environmental Design (LEED) standards or equivalent standards adopted or approved by the City. [Amd. Ord. 28-15 12/08/15]
- (a) At the time of Building Permit application, the owner shall submit:
    1. Proof of registration with the Green Building Certification Institute, or equivalent agency;
    2. A signed and sealed affidavit from a LEED Accredited Professional, or applicable designation, stating that the proposed Building is designed to achieve the required certification; and
    3. A LEED Scorecard, or equivalent document, identifying anticipated credits to be achieved.
  - (b) Prior to the issuance of a Certificate of Occupancy, the owner shall submit: (Ord. No. 19-18, § 7, 10-16-18)
    1. Proof of certification by the Green Building Certification Institute, or equivalent agency;
    2. A bond posted in a form acceptable to the City, in the amount indicated below;
      - a. Four percent of the total cost of construction for a building up to 100,000 square feet;
      - b. Five percent of the total cost of construction for a building 100,001 to 200,000 square feet;

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- c. Six percent of the total cost of construction for any building greater than 200,000 square feet; or

- 3. Proof of partial compliance from the Green Building Certification Institute, or applicable agency, which demonstrates the credits presently achieved. In addition, a prorated portion of the full bond amount, as indicated in subsection 2(b) above, shall be posted based on the number of remaining credits needed to meet minimum certification requirements. The bond amount to be posted shall be calculated as follows:

(credits remaining for certification / credits required for certification) x full bond amount = prorated bond amount

- (c) Forfeiture of bond. The bond required under this section 4.4.13(H)(2)(c) shall be forfeited to the City in the event that the building does not meet the for LEED Silver certification or applicable certification. The City will draw down on the bond funds upon failure of the owner to submit proof of LEED Silver certification in a form acceptable to the City within one year of the City's issuance of the Certificate of Occupancy for the building. If required certification is not achieved but a majority of the credits have been verified, the owner shall forfeit a portion of the bond based on any outstanding credits which shall be calculated as follows:

(credits remaining for certification / credits required for certification) x full bond amount = bond amount forfeited

If the amount to be forfeited is greater than 50 percent of the full bond amount, the bond shall be forfeited in its entirety. Funds that become available to the City from the forfeiture of the bond shall be placed in the In-Lieu Parking Fee Fund and earmarked for bicycle and pedestrian infrastructure purposes.

- (G) **Civic open spaces.** Civic open spaces are privately maintained outdoor spaces which are accessible by the general public, improve the pedestrian environment, are aesthetically pleasing, and serve as an amenity for the city as a whole as well as for occupants of the building which the open space serves.

- (1) **Amount required.** New development or additions of gross floor area equal to 20 percent or more to existing buildings shall provide civic open space as follows: [Amd. Ord. 28-15 12/08/15]

- (a) Sites smaller than 20,000 square feet have no civic open space requirement. The first 20,000 square feet of sites larger than 20,000 square feet are not used in the computation of required civic open spaces.
- (b) Sites between 20,000 and 40,000 square feet are required to provide five percent of the site's area that is above 20,000 square feet as civic open space.
- (c) Sites 40,000 square feet or more in size are required to provide civic open space as follows: (Ord. No. 19-18, § 8, 10-16-18)
  - 1. Five percent of the site's area between 20,000 and 40,000 square feet; plus
  - 2. Nine percent of the site's area above 40,000 square feet. (Ord. No. 19-18, § 8, 10-16-18)

For example, a site 62,000 square feet in size will calculate civic open space as follows:

20,000 square feet = 0

20,000 square feet x 5% = 1,000 square feet

22,000 square feet x 9% = 1,980 square feet

Total Civic Open Space Required = 2,980 square feet

(Ord. No. 19-18, § 8, 10-16-18)

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- (d) Dedicated rights-of-way and area used to meet the minimum setback or minimum streetscape standards in Section 4.4.13(E) do not count toward fulfilling the required amount. [Amd. Ord. 28-15 12/08/15]
- (e) Sites within the South Pairs Neighborhood Sub-district have reduced civic open space requirements as noted in Table 4.4.13(C). (Ord. No. 20-21, § 9, 12-7-21)
- (2) **Types of civic open spaces.** Civic open space shall be designed as one of the following types, which shall be identified on the site plan: (Ord. No. 19-18, § 8, 10-16-18)
- (a) **Green.** A green is at least 1,500 square feet in size and adjoins streets on at least two sides or a street and a pedestrian passageway or main building entry. Greens are designed primarily for passive uses, consisting primarily of lawn with either formally or informally arranged landscaping.
- (b) **Plaza.** A plaza is at least 1,500 square feet in size and adjoins streets on at least two sides or a street and a pedestrian passageway or main building entry. Plazas are mostly hardscaped with formally arranged landscaping and a water feature.
- (c) **Playground.** A playground is at least 2,500 square feet in size. Playgrounds provide children's play equipment and shaded seating. Playgrounds adjoin a street on at least one side and the configuration should ensure easy surveillance of the area from adjacent buildings and streets.
- (d) **Square.** A square is at least 10,000 square feet and adjoins streets on at least three sides. Squares may be up to 50 percent hardscaped, with formal landscaping. Squares accommodate both passive uses and community gatherings.
- (e) **Attached Green.** An attached green is generally 2,000 to 6,000 square feet and spans the entire length of a block. Attached greens shall be at least 30 feet wide and are appropriate on the short end of a block. Attached greens are primarily lawns with formally arranged landscaping.
- (f) **Community Garden.** A community garden is 2,500 to approximately 5,000 square feet and adjoins a street on at least one side. Community gardens are land that is cultivated collectively by members of a community (See Section 4.3.3 (D)).
- (g) For civic open space requirements between 250 and 1,500 square feet, buildings shall provide the required space using one of the following: (Ord. No. 19-18, § 8, 10-16-18)
1. A Forecourt frontage type (see Section 4.4.13(E)(4)(d)). (Ord. No. 19-18, § 8, 10-16-18)
  2. A pedestrian passageway open to the sky connecting the front of the property to the rear, at least ten feet in width, and containing a minimum of 50% pervious, landscaped area, with decorative elements of interest, such as benches, trellises, sculptures, and water features which complement the design style of the building. Outdoor use areas may be provided adjacent to but not within the minimum required pedestrian passageway area. (Ord. No. 19-18, § 8, 10-16-18)
- (h) **Public art.** For civic open space requirements less than 250 square feet, the space shall incorporate a fountain, living wall, mural, or sculpture shall be provided facing a street or a pedestrian passageway. (Ord. No. 19-18, § 8, 10-16-18)

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**Figure 4.4.13-G-1 Character Example of Landscaped Pedestrian Passageway**



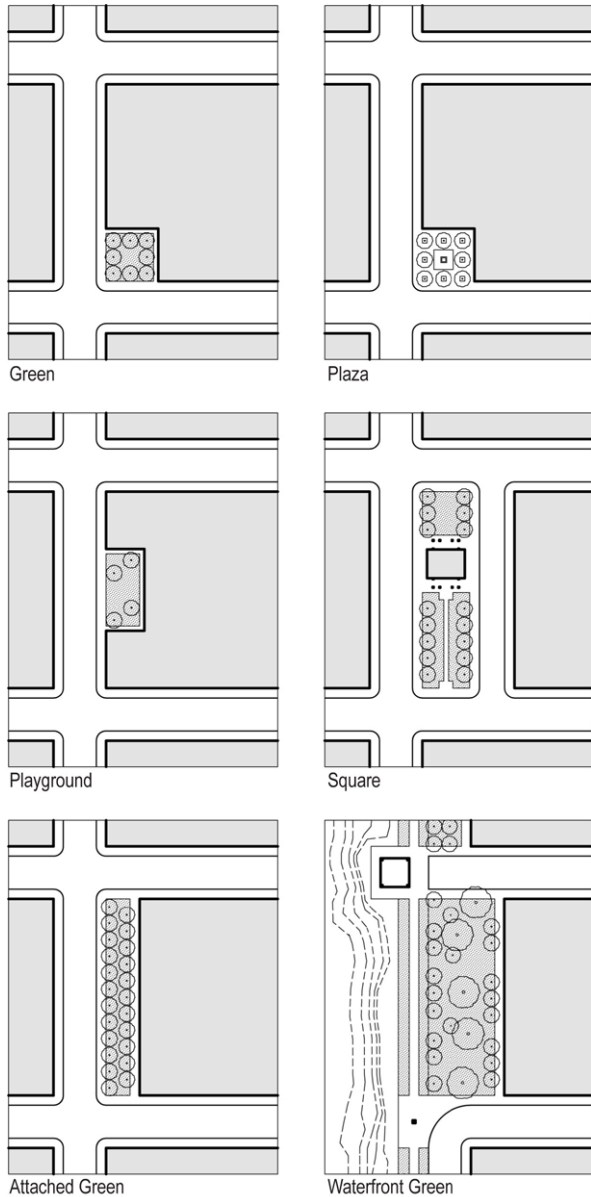
(Ord. No. 19-18, § 8, 10-16-18; Ord. No. 26-21, § 8, 8-10-21)

**Figure 4.4.13-G-2  
Character Example of Living Wall**



(Ord. No. 19-18, § 8, 10-16-18; Ord. No. 26-21, § 8, 8-10-21)

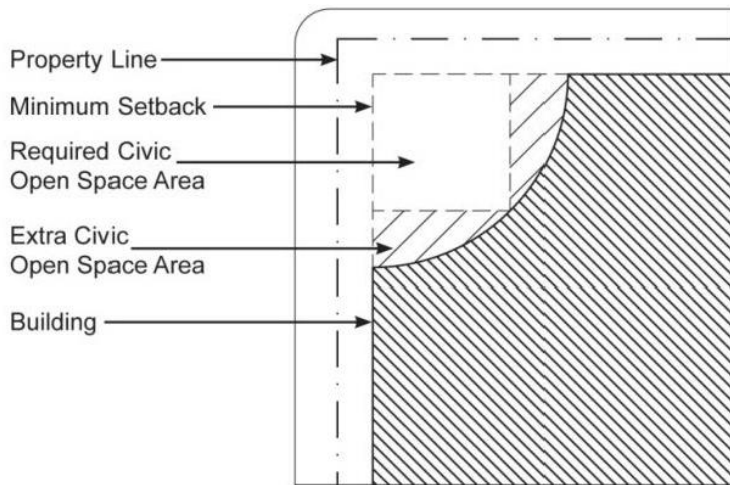
Figure 4.4.13-G-3 Civic Open Spaces



(Ord. No. 26-21, § 8, 8-10-21)

- (3) **Configuration.** Civic open spaces shall be configured as follows:
- (a) The civic open space shall adjoin a street front property line for no less than 30 linear feet.
  - (b) The required amount of civic open space shall be configured in square or rectangle; additional area above the required amount may augment the space, creating another shape (See Figure 4.4.13-G-4). [Amd. Ord. 28-15 12/08/15] (Ord. No. 19-18, § 8, 10-16-18; Ord. No. 26-21, § 8, 8-10-21)

**Figure 4.4.13-G-4 Civic Open Space Configuration**



(Ord. No. 19-18, § 8, 10-16-18; Ord. No. 26-21, § 8, 8-10-21)

- (c) Except for attached greens, civic spaces shall have a proportion so that the depth is no more than two and one-half times the width and the width is no more than five times the depth. [Amd. Ord. 28-15 12/08/15]
  - (d) Civic open spaces shall be lined by building facades or streets on all sides. In order to provide oversight of the space, buildings facing civic open spaces shall contain active uses; parking lots, parking garages, and storage areas are not considered active uses. [Amd. Ord. 28-15 12/08/15]
  - (e) Civic open space requirements of 3,000 square feet or more may be provided in up to two spaces; requirements less than 3,000 square feet shall be provided in one space. [Amd. Ord. 28-15 12/08/15]
- (4) **Additional standards.** Civic open spaces shall meet the following minimum standards:
- (a) Civic open spaces must be accessible to the public during all daylight hours. A portion of a civic open space may accommodate outdoor dining provided:
    - 1. The business is located adjacent to the open space;
    - 2. The open space provides an alternative location for a sidewalk café instead of using the streetscape area of an adjoining street right-of-way; and (Ord. No. 19-18, § 8, 10-16-18)
    - 3. The size of the area is generally consistent with the potential size of a sidewalk café that could be located within the streetscape of an adjoining street right-of-way.
  - (b) Civic open spaces must be situated to allow easy ingress and egress by pedestrians. Except for playgrounds, which may be fenced, no streetwalls, gates, fences or other impediments to pedestrian accessibility shall be permitted along the frontage lines;
  - (c) Civic open spaces must be located at the sidewalk level;
  - (d) Civic open spaces must be completely open to the sky, with no roofs, awnings, structural elements or covered areas above. Retractable awnings, trellises, and open-air garden structures such as pergolas, gazebos or band shells are permitted within civic open spaces; (Ord. No. 19-18, § 8, 10-16-18)

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- (e) Landscaping shall be arranged in a manner reflective of the type of civic open space. One shade tree per 20 feet of perimeter of the space is required. Trees may be arranged in regular spacing or in informal clusters, depending on the type of open space. Trees shall be installed to provide shade along walkways and for benches. Substituting shade trees for multiple palm species is not permitted; however, adding palms to the landscape design is permitted.
  - (f) Each civic open space shall provide the following elements, specifications subject to approval by the City of Delray Beach Public Works Department: (Ord. No. 29-20, § 2, 11-10-20)
    - 1. Seating for at least two people per 350 square feet of area. Seating may be provided on benches, chairs, or other horizontal surfaces designed for people to sit upon, including retaining walls, planter edges, tiers and other similar surfaces. Seating surfaces shall have a maximum height of 24 inches and have a minimum depth of 16 inches.
    - 2. One drinking fountain with dual pet water fountain feature; (Ord. No. 29-20, § 2, 11-10-20)
    - 3. At least one bicycle rack, but no more than two racks, as part of the required bicycle parking requirement. Any additional bicycle parking required by Table 4.4.13(M) shall be provided in other locations on the site; (Ord. No. 29-20, § 2, 11-10-20)
    - 4. One trash receptacle;
    - 5. One pet clean up station.
  - (g) Fences are permitted only to enclose playgrounds. Fences may be composed of wood or metal pickets and shall not exceed four feet in height.
  - (h) Vehicular traffic shall not be permitted within a civic open space.
  - (i) Civic open spaces shall be designed to enhance user safety and security using Crime Prevention Through Environmental Design (CEPTED) principles by:
    - 1. Being well lighted;
    - 2. Having one or more focal points within the open space visible from all perimeter streets;
    - 3. Having a clear landscape zone between three feet and eight feet in height providing sightlines unobstructed by berms or bushes.
- (5) **Availability.** Civic open space shall be developed and open for use concurrent with the issuance of a certificate of occupancy for the building(s) for which the open space is required.
- (H) **Incentive program.** Certain incentives may be offered from time to time to encourage development that advances City strategic, policy-driven goals, such as diverse residential housing opportunities, sustainable building practices, historic preservation, public parking, civic open space, or office uses within the CBD. The specific incentives and required performance criteria are set forth in this Section and may be revised or amended after seeking community input and in response to factors such as update to the Downtown Master Plan, changing conditions within the CBD, transportation impacts, or market and/or demographic shifts. Any incentives shall be broad based and applicable within the entire CBD or CBD sub-district, no incentives programs shall be considered on a case-by-case basis or project-by-project basis. (Ord. No. 20-21, § 10, 12-7-21)
- (1) **Residential Incentive Program.** To encourage a variety of unit types, and income ranges within the downtown area, opportunities to increase density are offered in certain CBD Sub-districts. This Residential Incentive Program is the only way to obtain increases in density for property zoned CBD. The maximum density allowed by Table 4.4.13(C) in certain CBD Sub-districts may only be increased in the locations described below. (Ord. No. 33-19, § 2, 12-3-19; Ord. No. 20-21, § 10, 12-7-21)

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- (a) Properties located within a historic district or on individually designated sites as listed on the Local Register of Historic Places in Section 4.5.1(l) are not eligible to use the Residential Incentive Program, unless specifically allowed by sub-district. (Ord. No. 20-21, § 10, 12-7-21)
  - (b) West Atlantic Neighborhood Sub-district. (Ord. No. 33-19, § 2, 12-3-19; Ord. No. 20-21, § 10, 12-7-21)
    - 1. Density may be increased over 12 du/ac (up to 30 du/ac) within the West Atlantic Neighborhood Sub-district, subject to the Performance Standards set forth in Section 4.4.13(H)(2). (Ord. No. 20-21, § 10, 12-7-21)
    - 2. Properties located within the West Atlantic Neighborhood Sub-district that are also located within the West Settlers Historic District may utilize the Residential Incentive Program to increase the density to over 12 du/ac (up to 20 du/ac) if the following criteria is met: (Ord. No. 33-19, § 2, 12-3-19; Ord. No. 20-21, § 10, 12-7-21)
      - a. The property is located between West Atlantic Avenue and NW 1<sup>st</sup> Street; and, (Ord. No. 33-19, § 2, 12-3-19; Ord. No. 20-21, § 10, 12-7-21)
      - b. The property does not contain a contributing structure; (Ord. No. 33-19, § 2, 12-3-19; Ord. No. 20-21, § 10, 12-7-21)
      - c. The property does not contain a non-contributing structure that is at least 30 years old, from the original date of construction; (Ord. No. 33-19, § 2, 12-3-19; Ord. No. 20-21, § 10, 12-7-21)
      - d. If the property is vacant, it has not contained a structure on the site for at least 15 years. (Ord. No. 33-19, § 2, 12-3-19; Ord. No. 20-21, § 10, 12-7-21)
  - (c) Railroad Corridor Sub-district. Density may be increased over 30 du/ac (up to 70 du/ac) within the Railroad Corridor Sub-district south of SE 2<sup>nd</sup> Street. (Ord. No. 03-21, § 5, 3-2-21; Ord. No. 20-21, § 10, 12-7-21)
  - (d) South Pairs Neighborhood Sub-district. Density may be increased over 12 du/ac within the South Pairs Neighborhood Sub-district as follows: (Ord. No. 20-21, § 10, 12-7-21)
    - 1. For properties located in the Limited Height Area on the west of SE 5<sup>th</sup> Avenue, density may be increased up to 22 du/ac provided the development is comprised of attached single-family townhouses and is no more than three stories and 38 feet in height; (Ord. No. 20-21, § 10, 12-7-21)
    - 2. For parcels between SE 5<sup>th</sup> Avenue and SE 6<sup>th</sup> Avenue, density may be increased up to 30 du/ac provided the Performance Standards set forth in Section 4.4.13(H)(2) are met; and (Ord. No. 20-21, § 10, 12-7-21)
    - 3. For parcels between SE 5<sup>th</sup> Avenue and SE 6<sup>th</sup> Avenue, density may be increased up to 50 du/ac, subject to the following: (Ord. No. 20-21, § 10, 12-7-21)
      - a. The Performance Standards set forth in Section 4.4.13(H)(2) are met; (Ord. No. 20-21, § 10, 12-7-21)
      - b. Civic open space in the amount equal to 5% of the lot area above 20,000 square feet plus 9% of the lot area above 40,000 square feet is provided; and (Ord. No. 20-21, § 10, 12-7-21)
      - c. Compliance with the provisions of Section 2.4.4(D), Establishment of Project, is achieved by December 31, 2025. Failure to timely establish a project pursuant

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to Section 2.4.4(D) will void any approval under this Subsection. (Ord. No. 20-21, § 10, 12-7-21)

- (2) **Performance standards for density increases.** Projects proposing to increase density from the base amount allowed in the West Atlantic Neighborhood Sub-district, the Railroad Corridor Sub-district, or the South Pairs Neighborhood Sub-district between SE 5<sup>th</sup> Avenue and SE 6<sup>th</sup> Avenue, shall provide workforce housing units as follows: (Ord. No. 03-21, § 5, 3-2-21; Ord. No. 20-21, § 10, 12-7-21)
- (a) Workforce housing units, equal to at least 20 percent of the total density shall be provided within the development onsite, offsite, or through monetary contributions as referenced in Article 4.7 (fractions shall be rounded up). (Ord. No. 03-21, § 5, 3-2-21; Ord. No. 20-21, § 10, 12-7-21)
  - (b) The workforce housing units shall be equally distributed between the low and moderate-income levels and shall comply with other applicable provisions of Article 4.7. (Ord. No. 03-21, § 5, 3-2-21; Ord. No. 20-21, § 10, 12-7-21)
  - (c) Projects within the Railroad Corridor Sub-district shall provide at least 20 percent of the total units as workforce housing units located on-site with an equal distribution of units for very low, low, and moderate Average Median Income levels for Palm Beach County. (Ord. No. 03-21, § 5, 3-2-21)

(3) **Approval process for incentives.**

- (a) Applications to utilize the Incentive Program will be reviewed as part of a site plan by the SPRAB or HPB, as applicable, for compliance with the regulations in this code that direct building configuration, uses, open space, streetscape design, parking location and quantity, and the performance standards in Section 4.4.13(H)(2). The SPRAB or HPB will make a recommendation to the City Commission on the entire site plan before the City Commission takes final action to approve or deny the site plan and the increased density. (Ord. No. 03-21, § 5, 3-2-21)
- (b) Applications must include, in addition to the standard application items of 2.4.3(A), a site and development plan (including landscaping, elevations, and floor plans) of sufficient detail to determine that the applicable development and performance standards are being met.

(I) **CBD parking standards.**

- (1) **Purpose of revised standards.** This section provides modified regulations for off-street parking and bicycle parking and facilities within all Sub-districts of the CBD. These regulations reflect the needs of the urban, mixed use downtown and recognize that it is a compact, interconnected area with multimodal transportation options. Improper placement of parking and mandatory duplication of the parking supply on each building site separates the various land uses from each other that reduces the viability of the mixed-use district and harms the walkability throughout the downtown area. When in conflict with the regulations in Section 4.6.9, this section shall rule. (Ord. No. 29-20, § 2, 11-10-20)

(2) **Minimum number of off-street parking spaces.**

- (a) The minimum number of parking spaces required in Section 4.6.9(C) "Number of Parking Spaces Required" is modified by this section for use in the CBD; Table 4.4.13(L) identifies the minimum number of off-street parking spaces required per use and location. Medical Offices, call centers, and any other uses not listed in the table shall use the requirements in Section 4.6.9(C). [Amd. Ord. 27-15 10/20/15]
  - 1. The Atlantic Avenue Parking District is mapped on the Central Core Regulating Plan (See Figure 4.4.13-5).
  - 2. Alternative Fuel Parking spaces are spaces provided on-site, clearly marked with adjacent charging stations for electric (EV)/plug-in hybrid vehicles (PHEV) and golf carts.

- (b) The parking required for the creation of new floor area, shall also include the replacement of any previously required parking which may be eliminated.
- (c) When the parking requirements are applied to new development or expansion of an existing use, which results in the requirement of only one new parking space, a one space exemption shall be allowed. This exemption may only occur once per property.
- (d) Properties less than 65 feet in width with a building no more than two stories in height are not required to provide off-street parking, except for restaurant and lounge uses. Properties less than 65 feet in width with a building more than two stories in height shall provide the full parking requirement for all uses in all stories. (Ord. No. 26-21, § 9, 8-10-21)
- (e) Properties located within 750 feet of a public parking garage or the Planned Tri-Rail Coastal Link station (See Figure 4.4.13-5) are not required to provide additional parking resulting from a change in use, except for new restaurant and lounge uses, within an existing building, provided additional floor area is not created. The distance shall be measured along the closest pedestrian route between nearest building entrances/the planned station location. [Amd. Ord. 27-15 10/20/15]

<b>Table 4.4.13(L) Minimum Number of Off-street Parking Spaces Required in the CBD</b>	
<b>Commercial Uses</b>	
Hotels/Motels <sup>1</sup>	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 <5,000 sf. in the South Pairs Neighborhood Sub-District	1 space per 500 sf. of net floor area
Business and Professional Office >5,000 sf. in the South Pairs Neighborhood Sub-District	1 space per 300 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	1 space per 500 sf. of gross floor area
Retail and Commercial Uses in the South Pairs Neighborhood Sub-District	1 space per 300 sf. of gross floor area
Restaurants and lounges (including those located within hotels/motels) NOT in the Atlantic Avenue Parking District	6 spaces per 1,000 sf. of gross floor area

Restaurants and lounges (including those located within hotels/motels) in the Atlantic Avenue Parking District	12 spaces per 1,000 sf. for the first 6,000 sf. Plus 15 spaces per each additional 1,000 sf.
<b>Residential</b>	
Community Residence	The number of off-street spaces required by Section 4.6.9(C)(7)(I) 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
<b>Alternative Fuel Parking Spaces</b>	
Residential	3% of Required Parking Spaces
Commercial	3% of Required Parking Spaces

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

(Ord. No. 19-18, § 9, 10-16-18; Ord. No. 20-21, § 11, 12-7-21)

- (f) Business and Professional Office uses located within 750 feet of a public parking garage or the Planned Tri-Rail Coastal Link Station (See Figure 4.4.13-B-1) have lower parking requirements than those located farther from those transportation resources. The distance shall be measured along the closest pedestrian route between nearest building entrances/the planned station location. Offices less than 10,000 square feet in area also have lower parking requirements; this reduction is not cumulative and is only available to small businesses. [Amd. Ord. 27-15 10/20/15] (Ord. No. 26-21, § 9, 8-10-21)
- (g) Properties located within 750 feet of a public parking garage or the Planned Tri-Rail Coastal Link Station (See Figure 4.4.13-B-1) may opt to use the in-lieu fee option provided in Section 4.6.9(E)(3) up to 50 percent of the required off-street parking amount, except that restaurant and lounge uses are limited to 30 percent. The distance shall be measured along the closest pedestrian route between nearest building entrances/the planned station location. [Amd. Ord. 27-15 10/20/15] (Ord. No. 26-21, § 9, 8-10-21)
- (h) Restaurants, Cocktail Lounges, Hotels, and Residential Type Inns may provide their required vehicular parking as valet parking, subject to the provisions of Section 4.6.9(F)(3).
- (i) Within the West Atlantic Neighborhood Sub-district, west of NW/SW 4<sup>th</sup> Avenue and east of NW/SW 12<sup>th</sup> Avenue, changes in commercial use within existing commercial buildings and associated outdoor areas subject to the provisions of Section 4.6.6, shall not be required to provide additional on-site parking. The provisions of this sub-subsection shall only be effective

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until December 31, 2023, and subject to submittal of a building permit. (Ord. No. 39-17 , § 2, 11-7-17; Ord. No. 01-20, § 2, 6-16-20)

- (j) Existing buildings located in the portion of the CBD Railroad Corridor Sub-district between SE 2<sup>nd</sup> Street and SE 3<sup>rd</sup> Street that undergo a change of use are not required to provide additional on-site parking spaces required by the new use category, if applicable. The provisions of this subsection shall only be effective until December 31, 2024, and subject to submittal of a building permit. (Ord. No. 02-18 , § 2, 4-3-18; Ord. No. 05-21, § 2, 4-6-21)
- (3) **Location and Access to Off-Street Parking.** Parking and service areas shall be accessed and located at the rear or side of the building(s) whenever possible.
- (a) **Location.**
1. Parking is not permitted in front setbacks or in side setbacks facing streets, parks, or civic open spaces.
  2. On Primary Streets, all parking lots shall be located to the rear of buildings. The SPRAB can approve alternative locations where parking in the rear is inappropriate or impossible and may require special perimeter treatments to protect and improve the pedestrian experience along the street.
  3. On Secondary Streets, parking lots may also be located on the side of buildings provided the parking is screened from view of the street by a streetwall (See Section 4.4.13(F)(7)) and landscaping as set forth in Section 4.6.16(H).
  4. On Primary Streets, parking garage levels shall be lined by another use permitted on Primary Streets for at least 20 feet of depth. (See Section 4.4.13(C)). On Secondary Streets, parking garage levels not lined by another use shall be screened by a building façade that meets the architectural requirements in Section 4.4.13(F).
  5. Offsite parking arrangements may be provided in lieu of providing on-site parking as set forth in Section 4.6.9(E)(5), except that the other property must be located within 750 feet, measured along the closest pedestrian route between nearest building entrance and nearest pedestrian garage entrance.
  6. If the required parking is not or cannot be provided on-site or off-site, the in-lieu fee option provided in Section 4.6.9(E)(3) may be applied.
  7. Within Townhouse and Townhouse type developments, parking may be provided in front of garage units provided that such parking does not result in the space for one unit impeding access to a space of the other unit.
- (b) **Access.** In addition to the standards in Section 6.1.4, the following standards apply in all CBD Sub-districts:
1. On Primary Streets, alleys and Secondary Streets, when present, shall be the primary source of vehicular access to off-street parking. Alleys may provide access to parking lots and garages and function as standard drive aisles, provided public access is maintained and access to all properties adjacent to the alley is maintained. Vehicles may back out onto alleys.
  2. When neither alleys nor Secondary Streets are present, primary vehicular access may be from a Primary Street. In the instance that site constraints necessitate access from a Primary Street, and the provision of an access drive precludes meeting the minimum building frontage percentage required, the Development Services Director may

administratively allow a reduction from the minimum building frontage in order to allow vehicular access to the site. (Ord. No. 20-21, § 11, 12-7-21)

3. When an alley is not present, bicycle, pedestrian, and vehicular access between adjacent parcels across property lines is required, and shall be accommodated within the site layout. The first property owner to develop shall be required to make an irrevocable offer of cross-access to the adjacent parcels prior to issuance of a building permit. When adjacent property develops, a reciprocal offer of cross-access is required, and the physical connection shall be completed.
4. Parking lots and structures shall provide pedestrian and bicycle access directly from a street. In addition, pedestrian access may also be provided directly from a building.
5. Buildings with more than 250 feet of street frontage shall provide a pedestrian/bicycle passageway at least ten feet wide connecting rear alleys and/or parking to the public sidewalk. The passageway shall have transparent windows covering at least 50 percent of the wall area and the incorporation of storefront windows is encouraged.
6. Public sidewalks may not be deviated to accommodate drop-off or valet parking.
7. Notwithstanding the regulations above, development in the South Pairs Neighborhood Sub-district shall not provide pedestrian or vehicular access to or from SE 7<sup>th</sup> Avenue. (Ord. No. 20-21, § 11, 12-7-21)

(4) **Bicycle parking and facilities.** The requirements for bicycle parking and facilities include the provision of bicycle racks, bicycle storage rooms or lockers, and showers. (Ord. No. 29-20, § 2, 11-10-20)<sup>3</sup>

(a) **Minimum Requirements.** Table 4.4.13(M), Minimum Number of Bicycle Parking Spaces and Facilities Required in the CBD, identifies the minimum number of on-site bicycle parking spaces and facilities required per use. Any uses not listed in the table shall use the requirements in Section 4.6.9(C). (Ord. No. 29-20, § 2, 11-10-20)

1. For mixed use projects, both the non-residential and residential requirements shall be met. Calculations for mixed use projects are cumulative. (Ord. No. 29-20, § 2, 11-10-20)
2. Bicycle Parking requirements are applied to new development, expansion of an existing use, and changes of use. (Ord. No. 29-20, § 2, 11-10-20)
3. The required facilities associated with the provision of bicycle parking include showers and changing areas. When showers are required, an associated changing area must also be provided. Residential uses and public spaces are not required to provide any facilities. (Ord. No. 29-20, § 2, 11-10-20)

<b>Table 4.4.13(M)</b>			
<b>Minimum Number of Bicycle Parking Spaces and Showers Required*</b>			
<b>Category</b>	<b>Type I</b>	<b>Type II</b>	<b>Showers</b>
<b>Commercial Uses</b>			
Hotels/Motels	1 space per 15 guest rooms plus requirements for Type I based on use (e.g	< 50 rooms: Not required ≥ 50 Rooms: Required at a rate of 2 per 50 rooms plus requirements for Type II	< 50 rooms: Not required ≥ 50 Rooms: Required at a rate of 2 per 50 rooms (no minimum)

<sup>3</sup>Editor's note(s)—Ord. No. 29-20, § 2, adopted November 10, 2020, repealed and replaced subsection 4.4.13(I)(4) which pertained to similar subject matter and derived from Ord. 27-15, adopted October 20, 2015 and Ord. No. 19-18, adopted October 16, 2018.

	restaurant, meeting rooms, and retail)	based on use (e.g. restaurant, meeting rooms, and retail)	
Professional Office < 50,000 sf	1 space per 5,000 sf	< 30,000 sf: Not required 2 spaces for 30,001—50,000 sf	< 30,000 sf: Not required 30,001—50,000 sf: 2
Professional Office > 50,000 sf	5 spaces minimum plus 2 spaces per 10,000 sf	5 spaces, plus 2 spaces per 10,000 sf	2, plus 2 per every additional 50,000 sf
Retail, Restaurants and Bars, Grocery Stores	1 space per 2,500 sf	< 10,000 sf: Not required ≥ 10,000 sf: 2 spaces per 10,000 sf	< 10,000 sf: Not required ≥ 10,000 sf: 2 per 10,000 sf
<b>Residential</b>			
Multifamily Dwelling with individual garage for each unit	1 space per 10 units	Not required	Not required
Multifamily Dwelling without individual garage for each unit	1 space per 10 units	1 space per 6 units	Not required
Live/Work Unit	1 space per 2 units	Not required	Not required
Single-family attach Homes	Not required		
<b>Other uses</b>			
Community Facilities (Libraries, Government Buildings)	2 spaces per 8,000 sf of floor area	2 spaces per 10 employees	< 20,000 sf or 25 employees: Not required ≥ 20,000 sf or ≥ 25 employees: 2 per 20,000 sf or every 25 employees, whichever is greater
Public Space (Parks, Beaches, Public Amphitheaters)	2 spaces for 5% of maximum expected daily attendance	< 20 employees: Not required ≥ 20 employees: 2 spaces per 20 employees	Not required
Medical offices, clinics and similar facilities	2 spaces per 20 employees or one space for each 25,000 sf of floor area, whichever is greater	< 20,000 sf: Not required ≥ 20,000 sf: 2 spaces per 20,000 sf	< 20,000 sf or 25 employees: Not required ≥ 20,000 sf or ≥ 25 employees: 2 per 20,000 sf or every 25 employees, whichever is greater
* Square feet shall be measured as gross square feet.			

(Ord. No. 29-20, § 2, 11-10-20)

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(b) **Bicycle Space Design and Location Requirements.** Visitor, employee, and resident bicycle parking facilities shall be located on-site and visible to the intended users and provided in a safe, accessible, and convenient location within 100 feet of a primary building entrance. When there is more than one building entrance, bicycle parking shall be distributed to serve all entrances. In addition to the requirements of this subsection, bicycle parking facilities shall follow the requirements of Section 4.6.9(E)(7), Location and Spacing Requirements for Bicycle Parking. Any *conflicts* between this subsection (b) and the standards and regulations set forth in Section 4.6.9 shall be governed by the provisions of this subsection. (Ord. No. 29-20, § 2, 11-10-20)

1. If bicycle parking is proposed within the minimum streetscape area (see Section 4.4.13(E)(2)), the bicycle rack or any parked bicycles shall not encroach within the minimum pedestrian clear zone. (Ord. No. 29-20, § 2, 11-10-20)
2. Up to 50 percent of the required Type I bicycle parking may be located within a public right-of-way if the approving body with support from the City Engineer and the Development Services Director determines that existing conditions, such as the existing building location or configuration, limit bicycle parking from being located on site. Bicycle parking placed within the public right-of-way must meet the following requirements: (Ord. No. 29-20, § 2, 11-10-20)
  - a. All bicycle parking shall use the City standard rack, as approved by the City Engineer. (Ord. No. 29-20, § 2, 11-10-20)
  - b. A maintenance agreement (in a form acceptable to the City Attorney) is required. (Ord. No. 29-20, § 2, 11-10-20)
3. If an improved alley is present or will be improved at the time of development, up to 20 percent of provided bicycle parking may be placed adjacent to the alley. (Ord. No. 29-20, § 2, 11-10-20)
4. The acting body may approve bicycle parking spaces located further than 100 feet from the primary building entrance(s) if the applicant demonstrates this requirement is not feasible due to existing building or site conditions and provided a safe alternative is identified. (Ord. No. 29-20, § 2, 11-10-20)

(J) **Streets and blocks.** The highly connected street and block structure of the downtown CBD area is a critical component of the cultural and historic character of the city. The network fosters multi-modal options, by reducing bike and walk distances, and allowing traffic to disperse.

(1) **Streets and alleys.** Within the CBD, the following standards apply to streets and blocks:

- (a) Local streets within the CBD may have travel lanes ten feet in width provided on-street parking is incorporated in the cross-section and with approval by the City Engineer.
- (b) On-street parking spaces shall be located outside of the applicable sight visibility triangle measurement. (Ord. No. 19-18, § 10, 10-16-18)
- (c) Streets and alleys may not be abandoned, vacated or closed to accommodate new development. (Ord. No. 19-18, § 10, 10-16-18)
- (d) Alleys provide an important tertiary support system. Alleys may be relocated provided access and service is maintained to all properties and the reconfigured alley maintains public access and has at least two separate access points for entry and exit within the same block. Alleys that are identified routes in the City's adopted bicycle and pedestrian master plan may not be relocated. Dead-end service courts are not permitted. To meet the City's sustainability goals, alleys that are improved as a result of redevelopment are encouraged to use permeable paving such as porous asphalt or concrete, subject to approval by the City Engineer. Development on property

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alongside an alley shall provide street lights as set forth in Section 6.1.5. (Ord. No. 19-18, § 10, 10-16-18)

(2) **Analysis of traffic circulation and access points.** To minimize impacts and coordinate traffic circulation, development which meets one of the following criteria must provide a professional study that analyzes options for internal traffic circulation and distribution to the external street network. The professional study will be reviewed and analyzed by the City Engineer, or his designee. The applicant shall comply with the City Engineer recommendations prior to review by the acting body on the site plan. (Ord. No. 19-18, § 10, 10-16-18)

- (a) The development proposes to move an alley;
- (b) The development is located on a block that does not have an alley;
- (c) The site is two acres or more in size; or
- (d) The site is located along the Intracoastal Waterway or a waterfront park.
- (e) The development proposes valet parking circulation on public rights-of-way. (Ord. No. 19-18, § 10, 10-16-18)

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

(1) **Visual impact analysis:** A 3-D visual impact analysis will be required which includes a model of the proposed development in a format compatible with GIS, such as SketchUp, Communityviz, City Engine, etc. Models shall depict building height, massing, and other details such as rooftop equipment which may visually impact adjacent properties. The model analysis shall be in accordance with the following: [Amd. Ord. 28-15 12/08/15]

- (a) New construction of 10,000 gross square feet or less: Model of the development site. [Amd. Ord. 28-15 12/08/15]
- (b) New construction of 10,001 gross square feet to 100,000 gross square feet: Model of the development site and all properties and structures within a 100-foot radius of the development site, as measured from the property lines of the development site. [Amd. Ord. 28-15 12/08/15]
- (c) New construction of 100,001 gross square feet or more: Model of the development site and all properties within a 500-foot radius of the development site, as measured from the property lines of the development site. [Amd. Ord. 28-15 12/08/15]
- (d) Additional analysis and/or an expanded analysis area may be required based upon project location or potential development impacts. This may be required by the Planning and Zoning Director at my point in the process. [Amd. Ord. 28-15 12/08/15]
- (e) A Sight Line Study of all development consisting of two or more stories shall be submitted for review by the approving body. The study shall include a one or more two-dimensional cross section, at a minimum scale of 1:100, of the site showing the building with the equipment screening in relation to the adjacent properties (including views from upper stories) and/or the public street. [Amd. Ord. 28-15 12/08/15]
- (f) Graphic illustration showing that the equipment is not visible within a 200-foot radius. The radius shall be measured from the exterior side of the screen to a point ten feet above finished grade. [Amd. Ord. 28-15 12/08/15]

(2) **Site Plan Review and Appearance Board (SPRAB).** For any new development requiring approval under Sections 2.4.5(F), 2.45(H), or 2.4.5(I), approval must be granted by the SPRAB, unless the property is located within a designated historic district or is individually designated (see subsection (3) below). In

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addition, the SPRAB has the following authority within the CBD: [Amd. Ord. 28-15 12/08/15] (Ord. No. 19-18, § 11, 10-16-18)

- (a) Modification of building frontage and setback requirements by waiver to accommodate civic buildings such as libraries, cultural facilities, municipal buildings, etc. along with parking garages associated with any development on properties that are not located within a Historic District or Individually Designated Sites as listed on the Local Register of historic Places in Section 4.5.1(I). (Ord. No. 19-18, § 11, 10-16-18)
  - (b) SPRAB may provide relief from the additional setback required above the third story for building entries, lobbies, and vertical circulation areas configured as tower elements consistent with the architectural character of the building; and setback relief for parking garage floors above the third story subject to Sec. 4.4.13(F)(8)(d). (Ord. No. 19-18, § 11, 10-16-18)
  - (c) Determination of compliance with the Performance Standards of the Incentive Program and provide recommendations of approval or denial to City Commission of requested increases in density under the program.
  - (d) Determination that a site plan design for a full service grocery store in the West Atlantic Neighborhood Sub-district has compatible transitions between adjacent commercial and residential areas. (Ord. No. 19-18, § 11, 10-16-18)
  - (e) Determination that desirable connectivity between properties and/or links identified on any adopted bicycle and pedestrian master plan are achieved on the site plan.
  - (f) Approval of alternative surface parking configurations for sites located on Primary Streets where parking in the rear is inappropriate or impossible. The SPRAB may require special perimeter treatments to protect and improve the pedestrian experience along the street.
  - (g) Recommend approval or denial to the City Commission of proposed architectural styles and/or any addition of architectural styles for use in the CBD or modifications to the Delray Beach Central Business District Architectural Design Guidelines. Recommendations must include an explanation of support or denial by the SPRAB as part of the motion to be transmitted to the City Commission. [Amd. Ord. 28-15 12/08/15] (Ord. No. 19-18, § 11, 10-16-18)
- (3) **Historic Preservation Board.** Any development of properties located within a Historic District or Individually Designated Sites as listed on the Local Register of Historic Places in Section 4.5.1(I) is subject to review by the Historic Preservation Board (HPB), pursuant to Section 2.2.6(D). For these properties, the Historic Preservation Board has the approval authority pursuant to Sections 2.4.5(F), 2.4.5(H), and 2.4.5(I), plus the additional authority described in subsections (2)(a)– (f) above. Architectural styles are determined by those which are both permitted in the CBD and identified as appropriate for the historic district based on the Period(s) of Significance per the adopted Ordinance. (Ord. No. 19-18, § 11, 10-16-18)
- (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: (Ord. No. 09-19, § 2, 3-12-19)
- (a) **Drive-through facilities.**
    - 1. Drive-in or drive-through restaurants are not permitted the CBD zoning district boundaries. [Amd. Ord. 27-15 10/20/15]
    - 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) **Gasoline stations.** Gasoline Stations are not permitted on Primary Streets. In addition to the standards in 4.3.3(J), the following configuration is required.
1. A ground-story shop must be located along a street, with the gas pumps located to the rear of the lot as illustrated in Figure 4.4.13-K-1. No more than eight dispensing locations are permitted. [Amd. Ord. 27-15 10/20/15] (Ord. No. 19-18, § 11, 10-16-18; Ord. No. 26-21, § 10, 8-10-21)
  2. The shop shall have the primary entrance facing and directly accessible from the street; an additional entrance facing the parking lot is permitted.
  3. Gasoline Stations may be one story in height.

**Figure 4.4.13-K-1**



(Ord. No. 19-18, § 11, 10-16-18; Ord. No. 26-21, § 10, 8-10-21)

- (c) **Car Wash establishments.** Car wash establishments, with automatic/mechanical systems shall not be located east of the Intracoastal Waterway or on lots which front along Primary Streets. Further, this use must be established on property with a minimum lot area of 20,000 square feet. (Ord. No. 19-18, § 11, 10-16-18)
- (d) **Automotive repair and detailing.** Automobile repair and automobile detailing may not be located north of S.E. 1<sup>st</sup> Street or south of SE 6<sup>th</sup> Street, extended. Conditional use approval may not be granted for a new automobile repair facility, or for the expansion of an existing facility, unless it is specifically demonstrated that off-street parking is available in accordance with the requirements of Section 4.6.9.
- (e) **Additional Application Requirements.** Applications for conditional use approval pursuant to Section 4.4.13(I) must include, in addition to the standard application items of 2.4.3(A), a site and development plan (including landscaping, elevations, and floor plans) of sufficient detail to determine that the applicable performance standards are being met. Final approval of the detailed site plan is by the SPRAB or HPB. (Ord. No. 19-18, § 11, 10-16-18)
- (f) **Modifications.** The process for modification of a conditional use and site plan approved pursuant to Section 4.4.13 (I) is as follows:

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1. Modifications to any aspect of the plan that was a basis for determining compliance with the applicable performance standards shall be processed as a modification to the conditional use approval.
  2. Modifications to the plan that do not affect the application of the performance standards may be processed as a site plan modification.
- (5) **Waivers.** This section allows consideration of two types of waivers: (Ord. No. 09-19, § 2, 3-12-19)
- (a) Section 2.4.7(B)(1)(a) authorizes the waiver of certain regulations irrespective of a property's zoning district. Those waivers may be considered within the CBD in accordance with those specific provisions. When reviewing applications that include waivers that can only be granted by the City Commission, the SPRAB and the HPB shall make formal recommendations to the City Commission regarding those waivers prior to site plan consideration. (Ord. No. 19-18, § 11, 10-16-18)
  - (b) Section 2.4.7(B)(1)(b) authorizes the City Commission to waive certain other regulations that no other official or board have the authority to waive.
    1. Within the CBD, that authority of the City Commission is limited by the following restrictions:
      - a. **Building Height Waivers.** Building Height Waivers. Waivers to increase the number of stories or maximum height of a building are not permitted. (Ord. No. 19-18, § 11, 10-16-18)
      - b. **Front Setback Waivers.** Waivers to decrease the minimum front setback depth are permitted if the reduction would not result in a streetscape that does not meet the minimum requirements of Section 4.4.13(E)(2). (Ord. No. 19-18, § 11, 10-16-18)
      - c. **Sidewalk Width Waivers.** Waivers to decrease the minimum sidewalk width are not permitted in the CBD.
    2. Within the CBD, the following standards shall be used by the City Commission, SPRAB or HPB when considering waiver requests, in addition to the findings in Section 2.4.7(B)(5): (Ord. No. 19-18, § 11, 10-16-18)
      - a. The waiver shall not result in an inferior pedestrian experience along a Primary Street, such as exposing parking garages or large expanses of blank walls.
      - b. The waiver shall not allow the creation of significant incompatibilities with nearby buildings or uses of land.
      - c. The waiver shall not erode the connectivity of the street and sidewalk network or negatively impact any adopted bicycle/ pedestrian master plan.
      - d. The waiver shall not reduce the quality of civic open spaces provided under this code.

#### **Sec. 4.4.29. Mixed Residential, Office And Commercial (MROC) District.**

[New Section Enacted by Ord. 33-06 12/5/06]

- (A) **Purpose and intent.** The MROC District regulations provide for a mix of residential, office, and commercial uses in a master-planned environment. The district encourages stand-alone office buildings and mixed—use development within the corridor with commercial or office uses on the ground floor and office or residential

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uses above while providing higher density opportunities and emphasizing transit-oriented development patterns. (Ord. No. 14-16, § 2, 6-21-16)

(B) **Principal uses and structures permitted.** The following types of uses are allowed within the MROC district as permitted uses:

- (1) Office center. The "Office Center" uses within an MROC development may comprise as much as one hundred percent (100%) of the total building square footage within the development. These uses can include:
  - (a) Financial Institutions, e.g., banks, savings and loan establishments, brokerage firms.
  - (b) Medical Offices, e.g., physicians, dentists, chiropractors, podiatrists, optometrists, etc.
  - (c) Professional Offices, e.g., attorneys, engineering firms, architectural
  - (d) Governmental offices, e.g., including federal, state, county, and local offices, along with their related fleet and communications operations (which will be considered accessory uses to governmental offices and services), civic centers, courthouses, fire stations, public health facility, law enforcement offices and facilities, post office, public utility facilities, communication towers and community facilities such as civic centers, cultural facilities, libraries, auditoriums, museums, and public recreation facilities, and services such as day care centers, abuse, child care centers.
  - (e) Business Support Services, primarily engaged in rendering services to other building establishments, e.g., such as mailing, building maintenance, personnel and employment services, management, and consulting services, protective services, copy and printing, travel, office supply, and similar services.
- (2) Research and development. Research and Development (R&D) uses involve either some degree of product creation, testing, evaluation, and development or the provision of testing and evaluation services for use by others. R&D uses may constitute 100 percent of the total building square footage within the development. Examples of such uses or resulting products include:
  - (a) Product creation, testing, evaluation, and development.
    1. computer hardware.
    2. computer software.
    3. pharmaceuticals.
  - (b) Research and development services.
    1. calibration laboratories or services.
    2. chemical laboratories.
    3. commercial testing laboratories.
    4. soil laboratories.
    5. scientific research laboratories.
- (3) General retail uses. Retail uses and/or facilities not to exceed 20 percent of the total building square footage of the development, including, but not limited to: [Amd. Ord. 35-10 10/19/10]
  - (a) Restaurants, baked goods, books, cheeses, beer, wine, liquor, confectioneries, cosmetics, meats, pharmacies, flowers and plants, fruits and vegetables, food, gifts, glassware, ice cream, leather goods, luggage, medical and surgical equipment, music and musical instruments, nautical supplies, office furniture equipment and supplies, pets and pet supplies, photographic equipment

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and supplies, sewing supplies, sporting goods, toys, wearing apparel and accessories, appliances, bicycles, business machines, jewelry. [Amd. Ord. 35-10 10/19/10]

- (b) Barber and beauty shops and salons, caterers, dry cleaning limited to on-site processing for customer pickup only, dry cleaning and laundry pickup stations, outdoor cafes, tailoring, tobacconist.
  - (c) Galleries, butcher shops, cocktail lounges, exercise facilities, museums, libraries, newsstands, commercial or public parking lots and parking garages.
  - (d) Neighborhood Electric Vehicle (NEV) sales, lease or rental transactions only (no inventory on-site for any purpose), accessory to any Research and Development or Office Center complex. (Ord. No. 36-16, § 12, 1-10-17)
- (4) **Multi-family Dwelling Units:** Multi-family uses excluding duplexes, subject to (c)(1)(2)(3) and (4) below, with a maximum density of either 40 or 50 units per acre, subject to the following: [Amd. Ord. 17-11 5/17/11]; [Amd. Ord. 10-11 4/5/11] (Ord. No. 25-17, § 32, 7-18-17)
- (a) Residential units within 1,000 linear feet of the Tri-Rail Transit station (measured by airline route) may comprise 100 percent of the total floor area of the development master plan at a maximum density of 50 units per acre. If a portion of the parcel is within 1,000 linear feet, this regulation shall apply to the entire parcel.
  - (b) Residential units between 1,001 and 2,500 linear feet of the Tri-Rail Transit station (measured by airline route) may comprise 80 percent of the total floor area of the development master plan at a maximum density of 50 units per acre and only when proposed as part of a mixed-use development containing office and/or commercial uses. If a portion of the parcel is within 2,500 linear feet, this regulation shall apply to the entire parcel.
  - (c) Residential units at a distance (measured by airline route) greater than 2,500 feet of a transit station may comprise 75 percent of the total floor area of the development master plan at a maximum density of 40 units per acre and only when proposed as part of a mixed-use development containing office and/or commercial uses.
    - 1. Residential developments must include a minimum of 20 percent workforce units consisting of moderate income workforce units as defined by Article 4.7 Family/Workforce Housing.
    - 2. Workforce units shall be subject to general provisions of Article 4.7.6, 4.7.7, 4.7.8, 4.7.9, and 4.7.10. Notwithstanding the above, residentially developed sites within 1,000 linear feet (measured by airline route) of the Tri-Rail station can contain 100 percent workforce housing units. If a portion of the parcel is within 1,000 linear feet, this regulation shall apply to the entire parcel.
    - 3. For mixed-use developments, the shared parking provisions of LDR Section 4.6.9. (C)(8) shall be allowed.
    - 4. All residential developments shall be subject to the Performance Standards of 4.4.13(l)(2).
- (5) Hotel, motel and residential all suite lodging. These types of uses may comprise up to 20 percent of the total floor area of the overall master plan. For the purpose of calculating the percentages of uses within the development master plan, multiple hotels, motels, and residential all suite lodging uses will be considered one specific use category.
- (6) Assisted Living Facilities that do not comport with the definition of "community residence," Nursing Homes, and Continuing Care Facilities subject to the requirements set forth in Section 4.4.29(B)(4) a, b, and c above. [Amd. Ord. 20-08 4/15/08] (Ord. No. 25-17, § 32, 7-18-17)

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- (7) Self-service storage facilities, pursuant to the Development Standards of Subsection (G)(1)(f). (Ord. No. 14-16, § 3, 6-21-16)
  - (8) Community Residence housing four to ten individuals, except as required by state law, that (1) is 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. (Ord. No. 25-17, § 32, 7-18-17)
  - (9) Urban Agriculture pursuant to regulations set forth in Section 4.3.3(D). (Ord. No. 07-17, § 14, 5-16-17)
- (C) **Accessory uses and structures permitted.** The following uses are allowed when a part of, or accessory to, the principal use:
- (1) Parking lots and parking garages.
  - (2) Refuse, service and loading areas.
  - (3) Meeting and conference facilities when associated with uses in the Master Plan.
  - (4) Provision of services and repair of items incidental to the principal use.
  - (5) Recreational facilities attendant to a multi-family residential development, such as tennis courts, swimming pools, exercise areas, and meeting rooms.
  - (6) Fleet Management, field operations services, and communication facilities associated with governmental offices and services.
  - (7) Family Day Care Home, pursuant to Section 4.3.3(T). [Amd. Ord. 25-10 10/19/10]
  - (8) Urban Agriculture, pursuant to regulations set forth in Section 4.3.3(D). (Ord. No. 07-17, § 14, 5-16-17)
- (D) **Supplemental uses.** The following uses are allowed within the Office and Research and Development use areas of the development provided that they are of such a scale, design, and location to cater to the needs of employees of the office center or research and development park. Space allocations for these uses shall be identified during the approval. (Ord. No. 14-16, § 4, 6-21-16)
- (1) Lunch counters, cafeterias, restaurants, snack bars, and vending machine areas. (Ord. No. 14-16, § 4, 6-21-16)
  - (2) Classroom and training facilities. (Ord. No. 14-16, § 4, 6-21-16)
  - (3) Child Care facilities. (Ord. No. 14-16, § 4, 6-21-16)
  - (4) Sundry shops. (Ord. No. 14-16, § 4, 6-21-16)
  - (5) Exercise facilities. (Ord. No. 14-16, § 4, 6-21-16)
- (E) **Conditional uses and structures allowed.** The following uses are allowed as conditional uses within the MROC District. Uses approved in this section shall be part of the maximum percentage for each use.
- (1) Health spas, fitness centers, gymnasiums, and exercise facilities which are open to the general public
  - (2) Pet services and veterinary clinics, subject to Section 4.3.3(W). (Ord. No. 17-21, § 14, 10-19-21)
  - (3) Drive-thru facilities associated with any allowed use.
  - (4) Twenty-four-hour/late night businesses (except for governmental offices and services) as defined herein must be processed as a conditional use and are subject to the provisions of Section 4.3.3(vv).

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- (5) Day Care Centers subject to LDR Section 4.3.3(E).
  - (6) Educational Facilities, training centers, and vocational schools. This use will be considered similar to "Office Center" for the purposes of MROC regulations pertaining to types of uses, except for parking, which shall be pursuant to Section 4.4.29(H)(8). [Amd. Ord. 18-09 4/21/09]
  - (7) Live/Work Unit, subject to Section 4.3.3(KKK). [Amd. Ord. 23-10 10/5/10]
  - (8) Large Family Child Care Home, subject to Section 4.3.3(TT). [Amd. Ord. 25-10 10/19/10]
  - (9) Community Residence housing four to ten individuals, except as required by state law, that (1) is less than 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, or (2) the State of Florida does not require the operator or applicant to be licensed or certified to operate the proposed community residence, has no certification from an appropriate national accrediting agency, or has not been recognized or sanctioned by Congress to operate the proposed community residence. (Ord. No. 25-17, § 33, 7-18-17)

(F) **Review and approval process.**

- (1) All Development of parcels greater than three acres with development planned to be completed in a phased manner and/or which require waivers within the MROC District shall be governed by a Master Development Plan (MDP. The MDP shall consist of a narrative; a land use map; conceptual site, landscaping, and utility plans; and conceptual elevations and architectural renderings. An MDP shall be processed pursuant to Section 2.4.5(F) with approval granted by the Planning and Zoning Board. An MDP may be modified pursuant to Section 2.4.5(G). (Ord. No. 14-16, § 5, 6-21-16)
- (2) All site plan applications for new development must receive approval by the Site Plan Review and Appearance Board (SPRAB) with respect to Sections 2.4.5(F), (G), (H), and (I) and be consistent with the approved MDP, as applicable. (Ord. No. 14-16, § 5, 6-21-16)

(G) **Development standards.** The following standards shall be adhered to for any new development within the MROC District. Waivers and internal adjustments to these standards may be approved by the Planning and Zoning Board as a part of the approval of an MDP, as applicable. When considering an MDP, the Planning and Zoning Board may require conditions to address the specific characteristics of the site and potential impacts of the proposed development. (Ord. No. 14-16, § 6, 6-21-16)

- (1) **Standards pertaining to allocation of uses per development.** (Ord. No. 14-16, § 6, 6-21-16)
  - (a) Office Center uses may encompass up to 100 percent of the total floor area of a development. (Ord. No. 14-16, § 6, 6-21-16)
  - (b) Research and Development uses may encompass up to 100 percent of the total floor area of the development. Such use may be placed within any of the "land use areas" depicted on the MDP. (Ord. No. 14-16, § 6, 6-21-16)
  - (c) Retail uses shall not encompass more than 20 percent of the total floor area of the development. (Ord. No. 14-16, § 6, 6-21-16)
  - (d) Hotels, motels, and residential all suite lodging shall not encompass more than 20 percent of the total floor area of the development. Hotels, motels, and residential all suite lodging may comprise 100 percent of the floor area of an individual building within an MDP containing multiple buildings. (Ord. No. 14-16, § 6, 6-21-16)
  - (e) Multi-family uses may comprise up to 75 percent to 100 percent of a development, as identified under LDR Section 4.4.29(B)(4). (Ord. No. 14-16, § 6, 6-21-16)

- (f) Self-service Storage Facility uses shall not encompass more than 50 percent of the total floor area of the development, unless the Development Bonus requirements are met, pursuant to Subsection (G)(2)(h)(7). Self-service storage facilities may comprise 100 percent of the floor area of an individual building as part of a mixed-use development containing multiple buildings. (Ord. No. 14-16, § 6, 6-21-16)
- (2) **Standards unique to the MROC District.** Where standards unique to the MROC District conflict with standards contained elsewhere in the LDRs, the standards of this Subsection (2) shall prevail. (Ord. No. 14-16, § 6, 6-21-16)
- (a) **Minimum site area.** Minimum site area for development within the MROC District is two acres. The approving body may grant a waiver to the two acre requirement upon a determination that the development is consistent with the purpose and intent of the MROC District. (Ord. No. 14-16, § 6, 6-21-16)
- (b) **Minimum floor area.**
1. Tenant space within research and development use areas must have a minimum of 1,000 square feet per tenant. (Ord. No. 14-16, § 6, 6-21-16)
  2. There are no minimum floor area requirements for office, retail, hotels, motels, and residential all suite lodging uses. (Ord. No. 14-16, § 6, 6-21-16)
  3. Residential units are subject to the minimum square footage per unit requirements of LDR Section 4.3.4(K) (Development Standards Matrix for Residential Zoning Districts - Subnote #1). (Ord. No. 14-16, § 6, 6-21-16)
  4. Self-service storage facilities are limited in floor area pursuant to Subsection (G)(1)(f). (Ord. No. 14-16, § 6, 6-21-16)
- (c) **Lot coverage and open space.**
1. Lot coverage by building, pavement and hardscape site improvements shall not exceed 75 percent of the MROC development of the area of any individual lot, excluding any hardscaping within the Civic Open Space provided through the Community Benefit Bonus. (Ord. No. 14-16, § 6, 6-21-16)
  2. Land area, equal to at least 25 percent of the total district including the perimeter landscaped boundary, shall be in open space. Landscape areas required to meet internal parking lot design requirements, water bodies and paved areas shall not be included in the meeting of this 25 percent open space requirement. (Ord. No. 14-16, § 6, 6-21-16)
- (d) **Perimeter development.** A landscape buffer shall be provided around each development. Parking, structures, perimeter roadways, and other paving is not permitted within this buffer except for bicycle paths, sidewalks, jogging trails, and driveways or access streets which provide ingress and egress for traffic and which are generally perpendicular to the buffer. The width of the buffer shall be the smaller distance of either the dimensions below or ten percent of the average depth of the property; however, in no case shall the landscape area be a width of less than ten feet. (Ord. No. 14-16, § 6, 6-21-16)

• When adjacent to Congress Avenue (Ord. No. 14-16, § 6, 6-21-16)	15 feet
• When abutting residentially zoned property	40 feet
• When adjacent to but separated from residentially zoned property by a street, waterway, alley, railway or park	25 feet
• All other perimeters (Ord. No. 14-16, § 6, 6-21-16)	15 feet
• Adjacent to CSX Railway (Ord. No. 14-16, § 6, 6-21-16)	25 feet

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- (e) **Minimum structure size.** Any free-standing non-residential principal structure shall have a minimum floor area of 4,000 square feet; shall be architecturally consistent with other structures in the development plan; and shall have direct access to and from other portions of the development. (Ord. No. 14-16, § 6, 6-21-16)
- (f) **Height.** The maximum height of all buildings shall be 85 feet. The height of a self-service storage facility is limited to no more than two times the height of the lowest height of all other building(s) on the site. Floor heights for all buildings shall comply with the following: (Ord. No. 14-16, § 6, 6-21-16)
1. Office, Research, and Commercial Floor Heights shall be a minimum of 12 feet floor to floor on the first floor and ten feet floor to floor on all floors above. (Ord. No. 14-16, § 6, 6-21-16)
  2. Residential uses shall have a minimum floor height of nine feet floor to floor on all floors. (Ord. No. 14-16, § 6, 6-21-16)
  3. Hotel, motel, residential all suite lodging, and self-service storage facilities shall have a minimum floor height of eight feet, six inches floor to floor on all floors. (Ord. No. 14-16, § 6, 6-21-16)
  4. Auxiliary and service rooms, such as, garages, restrooms, closets, laundry rooms, dressing rooms, storage rooms, mechanical, electrical, and plumbing equipment rooms are exempted from the floor height regulations. (Ord. No. 14-16, § 6, 6-21-16)
- (g) **Setbacks.**
1. **Congress Avenue frontage.** Setbacks shall be a minimum of ten feet and a maximum of 20 feet. (Ord. No. 14-16, § 6, 6-21-16)
  2. **Front yard.** Shall be the minimum identified in LDR Section 4.4.29 (G)(2)(d), Perimeter Development Buffers, to a maximum height of 42 feet. Thereafter, additional setbacks for the portion of the building exceeding 42 feet shall be a minimum of an additional ten feet. (Ord. No. 14-16, § 6, 6-21-16)
  3. **Side yard.** When adjacent to residential uses, excluding mixed-use development, the side yard setback requirements shall be the minimum identified in LDR Section 4.4.29 (G)(2)(d) (Perimeter Development Buffers) to a maximum height of 42 feet. Thereafter, additional setbacks for the portion of the building exceeding 42 feet shall be a minimum of an additional ten feet. (Ord. No. 14-16, § 6, 6-21-16)
  4. **Rear yard.** Shall be the minimum identified in LDR Section 4.4.29 (G)(2)(d) (Perimeter Development Buffers) to a maximum height of 42 feet. Thereafter, additional setbacks for the portion of the building exceeding 42 feet shall be a minimum of an additional ten feet, excluding those properties with rear yards adjacent to the CSX Railway which do not require the additional setback above 42 feet. (Ord. No. 14-16, § 6, 6-21-16)
  5. **Building separations.** Shall be a minimum of 25 feet. For the purpose of this section parking structures are not considered to be buildings. (Ord. No. 14-16, § 6, 6-21-16)
  6. **Properties adjacent to the CSX Railway.** The required building setback for properties adjacent to the CSX Railway shall be a minimum of 25 feet, whether determined to be the front, side interior, side-street, or rear of a property. (Ord. No. 14-16, § 6, 6-21-16)
- (h) **Self-service storage facilities.** The following requirements apply to self-service storage facilities: (Ord. No. 14-16, § 6, 6-21-16)

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1. **Location.** Self-service storage facilities shall not be located within a radius of 1,000 feet of another existing self-service storage facility, measured from property line to property line. Self-service storage facilities are permitted only on properties east of Congress Avenue and adjacent to the Railway, as provided below: (Ord. No. 14-16, § 6, 6-21-16)
    - a. Self-service storage facilities may not be established on the first and second floors of a building located within 200 feet of Congress Avenue, as measured in a straight line, perpendicular to the right-of-way. (Ord. No. 14-16, § 6, 6-21-16)
    - b. The property containing the self-service storage facility must contain additional commercial and/or residential development between the self-service storage facility and Congress Avenue. (Ord. No. 14-16, § 6, 6-21-16)
  2. **Facilities and requirements.** (Ord. No. 14-16, § 6, 6-21-16)
    - a. **Bay access.** Outdoor bay type access to individual self-service storage facilities is prohibited. The exterior loading access points shall be designed in such a way to minimize sight lines from adjacent roads. (Ord. No. 14-16, § 6, 6-21-16)
    - b. **Parking.** Parking shall be provided at the rates set forth in Section 4.6.9 for the permitted service, office and retail uses. For self-service storage facilities, parking shall be at a rate of one parking space per 100 storage units or portion thereof, including: (a) a minimum of three loading spaces for the self-service storage facility that must be striped and signed to limit the time for loading and unloading to one hour; and in addition (b) three and one-half spaces for each 1,000 square feet of accessory office use associated with the self-service storage facility. Notwithstanding the above, a minimum of five parking spaces other than loading spaces shall be provided in connection with the self-service storage facility. (Ord. No. 14-16, § 6, 6-21-16)
  3. **Limitation of additional on-site uses.** (Ord. No. 14-16, § 6, 6-21-16)
    - a. Activities not related to the rental or lease of self-service storage units shall not be conducted within the area designated for the self-service storage facility. (Ord. No. 14-16, § 6, 6-21-16)
    - b. No business or activity other than self-storage shall be conducted from any self-storage unit in the facility. (Ord. No. 14-16, § 6, 6-21-16)
    - c. Except as otherwise provided in this subsection, there shall be no electrical power provided to, or accessible from any individual self-storage units. This includes the provision of lighting fixtures to the interior of a self-storage unit. The use of portable generators is also prohibited. (Ord. No. 14-16, § 6, 6-21-16)
    - d. The use or storage of any hazardous materials is prohibited. (Ord. No. 14-16, § 6, 6-21-16)
    - e. The terms and conditions of this section shall be clearly expressed in all self-storage rental or leasing contracts, as well as conspicuously displayed in plain view on a sign no smaller than one foot by two feet in the leasing office at the facility. (Ord. No. 14-16, § 6, 6-21-16)
  4. **Hours of operation.** Customers of the self-service storage facility may not access individual self-storage units before 5:00 a.m. or any later than 9:00 p.m. Hours of operation may be further restricted when it is deemed that morning and evening traffic into and out of the facility may negatively impact the character of an adjacent residential area. In no

circumstance shall customers of any self-service storage facility have 24 hour access to their self-storage unit(s). (Ord. No. 14-16, § 6, 6-21-16)

5. **Outdoor storage of vehicles, boats and truck rental.** Outdoor storage of boats and vehicles and truck rental is prohibited. (Ord. No. 14-16, § 6, 6-21-16)
6. **Architecture.** All building facades shall have the appearance of an office and/or retail building through the use of doors, windows, awnings, and other appropriate building elements, consistent with the overall development, with multi-story buildings clearly defined. (Ord. No. 14-16, § 6, 6-21-16)
7. **Development bonuses and requirements.** Self-Service Storage Facilities may exceed the permitted floor area limit in Section (G)(1)(f), by complying with the following: (Ord. No. 14-16, § 6, 6-21-16)
  - a. Location of an Office Headquarters, where the company's executive offices and direct support staff are located and which has committed to staying on the site for at least three years, may permit the total square footage of the self-service storage facility to be double the amount of total square footage attributed to the other uses within the development, and; (Ord. No. 14-16, § 6, 6-21-16)
  - b. Provision of the required Community Benefit Bonuses, defined in Subsection (G)(2)(h)7.c.-g., may permit an additional square footage increase as established in Subsection (G)(2)(h)7.a., as follows: (Ord. No. 14-16, § 6, 6-21-16)

Community Benefit Bonuses	Percentage of Floor Area Increase	Bonus Type
1	Up to 50%	Select any "A" Bonus
2	51%—100%	Select one "A" Bonus and one "A" or "B" Bonus
3	101%—150%	Select two "A" bonuses and one "A" or "B" Bonus
4	151%—200%	Select two "A" bonuses and two "A" or "B" Bonuses
"A" Bonus List		"B" Bonus List
Civic Open Space, in accordance with the design criteria of Subsection (G)(7)(C)		Mobility/transit contribution equal to 0.5% of the total project construction costs.
Congress Avenue Corridor Beautification contribution equal to 2% of the total project construction costs		Green Building Certification, minimum Silver level.
10' Greenway Easement along property line adjacent to CSX Railway with contribution equal to 2% of total project construction costs		Workforce Housing contribution equal to .75% of the total project construction costs
Community Benefit Agreement, in accordance with Subsection (G)(7)(i).		

Ex.

Total floor area of development pre-bonus	Permitted SSSF* Floor Area	Permitted SSSF* Floor Area w/Corporate Headquarter	Bonus SSSF* Floor area / % of Floor Area Increase	Total SSSF Floor Area	Community Benefit Bonuses Required
a	b	c	d	e	
	$a \times .5 = b$	$(a \times .5) \times 2 = c$	$c \times \% = d$	$c + d = e$	
50,000 sf	25,000 sf	50,000 sf	11,750 sf / 47%	86,750	2 Bonuses required; one bonus from "A" and one bonus from "A" or "B".
50,000 sf	25,000 sf	50,000 sf	48,500 sf / 194%	123,500	4 Bonuses required; two from "A" and two from "A" or "B"

\*Self-Service Storage Facilities

- c. **Civic open space.** Civic open spaces are privately maintained outdoor spaces which are accessible by the general public, improve the pedestrian environment, are aesthetically pleasing, and serve as an amenity for the city as a whole as well as for occupants of the building which the open space serves. Civic Open spaces shall be provided in accordance with the following: (Ord. No. 14-16, § 6, 6-21-16)
- i. Civic open space shall consist of at least five percent of the total lot area in addition to the minimum required Open Space, and be clearly defined and contiguous. (Ord. No. 14-16, § 6, 6-21-16)
  - ii. The civic open space shall adjoin a street front property line for no less than ten percent of the frontage width. (Ord. No. 14-16, § 6, 6-21-16)
  - iii. Civic open spaces must be accessible to the public during all daylight hours. (Ord. No. 14-16, § 6, 6-21-16)
  - iv. Civic open spaces must be situated to allow easy ingress and egress by pedestrians, and may not be fenced. (Ord. No. 14-16, § 6, 6-21-16)
  - v. Civic open spaces must be located at the sidewalk level; (Ord. No. 14-16, § 6, 6-21-16)
  - vi. Civic open spaces must be open to the sky; however, open-air garden structures such as gazebos or band shells are permitted within civic open spaces; (Ord. No. 14-16, § 6, 6-21-16)
  - vii. Landscaping shall be arranged in a manner reflective of the type of civic open space. One shade tree per 20 feet of perimeter of the space is required. Trees may be arranged in regular spacing or in informal clusters, depending on the type of open space. Trees shall be installed to provide shade along walkways and for benches. Substituting shade trees for multiple palm species is not permitted; however, adding palms to the landscape design is permitted. (Ord. No. 14-16, § 6, 6-21-16)

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- viii. Each civic open space shall provide street furniture elements, specifications subject to approval by the City of Delray Beach Engineering Department, including seating for at least two people per 500 square feet of area, one drinking fountain, one bicycle rack with no less than four spaces, one trash receptacle, and one pet clean up station. (Ord. No. 14-16, § 6, 6-21-16)
  - ix. Civic open space shall be developed and open for use concurrent with the issuance of a certificate of occupancy for the building(s) for which the open space is required. (Ord. No. 14-16, § 6, 6-21-16)
  - d. **Congress Avenue Corridor Beautification Contribution.** The Congress Avenue Corridor Beautification Contribution, which is based on the total project construction costs noted on the Building Permit application, shall be provided to the Planning and Zoning Department prior to the issuance of Certificate of Occupancy. Contributions are for the sole purpose of improving the Congress Avenue Corridor. (Ord. No. 14-16, § 6, 6-21-16)
  - e. **Greenway easement and contribution.** The Greenway Easement and Contribution, which is based on the total project construction costs noted on the Building Permit application, shall be provided to the Planning and Zoning Department prior to the issuance of Certificate of Occupancy. Contributions are for the sole purpose of establishing and improving the CSX Railroad Greenway. (Ord. No. 14-16, § 6, 6-21-16)
  - f. **Delray Beach Mobility/Transit Contribution.** The Delray Beach Mobility/Transit Contribution, which is based on the total project construction costs noted on the Building Permit application, shall be provided to the Planning and Zoning Department prior to the issuance of Certificate of Occupancy. Contributions are for the sole purpose of mobility or transit within the Congress Avenue corridor. (Ord. No. 14-16, § 6, 6-21-16)
  - g. **Workforce housing contribution.** The Workforce Housing Contribution, which is based on the total project construction costs noted on the Building Permit application, shall be provided to the Planning and Zoning Department prior to the issuance of Certificate of Occupancy. Contributions are for the sole purpose of constructing additional Workforce Housing Units within the City.(Ord. No. 14-16, § 6, 6-21-16)
  - h. **Green building certification.** Green Building Certification (or equivalent) of a Silver level or higher must be obtained upon receiving the final inspection and Certificate of Occupancy by the Building Division. A surety bond in the amount of five percent of the total project construction costs will be submitted to the City, and released upon certification of a Silver level or higher. If this certification is not achieved, the City Commission may determine if the bond, or a percentage thereof, will be retained. (Ord. No. 14-16, § 6, 6-21-16)
  - i. **Community benefit agreement.** A Community Benefit Agreement (CBA), in a form acceptable to the City Attorney, approved and adopted via Resolution by the City Commission which directly benefits the community such as local hiring initiatives for construction jobs, provision of Living Wages for all new hires, location of Corporate Headquarters, and any other mutually agreed upon benefits. (Ord. No. 14-16, § 6, 6-21-16)

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8. **Site development relief.** Developments which utilize the bonus program in Subsection (G)(7) above are not eligible to seek relief for the Development Standards listed in Section 4.3.4(K), or the requirements of this Section. (Ord. No. 14-16, § 6, 6-21-16)
9. **Building permits.** All permits for an approved development which contains a self-service storage facility will not be issued prior to the issuance of permits for other uses on the site, or issued a Certificate of Occupancy until the other uses are completed. (Ord. No. 14-16, § 6, 6-21-16)
- (H) **Supplemental district regulations.** The supplemental district regulations as set forth in Article 4.6 shall apply except as modified by, or added to, as follows:
- (1) The perimeter buffer shall be landscaped to provide a boulevard effect along Congress Avenue.
  - (2) The parking requirement for restaurants is established at 12 spaces per 1,000 square feet of gross floor area. [Amd. Ord. 01-09 1/20/09]
  - (3) The parking requirements for residential units in multi-family structures or mixed-use buildings shall be as follows:

• Efficiency dwelling unit	1.0 space/unit
• One bedroom dwelling unit	1.25 spaces/unit
• Two or more bedroom dwelling unit	2.00 spaces/unit
• Two or more bedroom dwelling units within 1,000 feet of a Tri-Rail station	1.5 spaces/unit
• Guest parking shall be provided cumulatively as follows:	
- for the first 20 units	0.50 spaces/unit
- for units 21—50	0.30 spaces/unit
- for units 51 and above	0.20 spaces/unit
  - (4) The parking for commercial uses shall be four and one-half spaces per 1,000 square feet of gross floor area. [Amd. Ord. 01-09 1/20/09]
  - (5) The parking for business and professional office uses shall be four spaces per 1,000 square feet of net floor area up to 3,000 square feet and then three and one-half spaces per 1,000 square feet of net floor area over the initial 3,000 square feet. [Amd. Ord. 01-09 1/20/09]
  - (6) The parking for Medical office uses shall be five spaces per 1,000 square feet of gross floor area. [Amd. Ord. 01-09 1/20/09]
  - (7) The parking for governmental uses shall be as outlined in LDR Section 4.6.9.(C).
  - (8) The parking for educational facilities, training centers and vocational schools shall be as outlined in LDR Section 4.6.9(C)(6)(e). [Amd. Ord. 18-09 4/21/09]
  - (9) For mixed-use developments, the shared parking formula under LDR Section 4.6.9(c)(8) can be utilized.
  - (10) Guest parking spaces must be accessible to all visitors and guests and may be centralized or located near recreational features within a development project.
  - (11) Parking adjacent to Congress Avenue. Parking shall be located to the rear of buildings having direct frontage along Congress Avenue. To that end no surface parking shall be located between buildings and Congress Avenue. Notwithstanding the above, relief to this requirement can be granted to accommodate pre-existing conditions.
- (I) **Special regulations.**

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- (1) Documentation which constitutes evidence of unified control of the entire area within an MROC development must be provided at the time of submission of the Master Development Plan.
  - (2) A program for full provision, maintenance, and operation of common areas, improvements, facilities, and services for the common use of occupants of the MROC development, and which specifically provides that no such elements or features shall be provided or maintained at the public's expense, must be provided at the time of submission of the Master Development Plan.
  - (3) Executed agreements, contracts, covenants, deed restrictions, sureties, or other legal arrangements for the maintenance, repair, and operation of matters under Subsection (1)(2) and which bind successors in title to any such commitments, shall be provided prior to certification of a MROC site and development plan.
  - (4) The applicant must be able to bind the entire area within a proposed MROC development to the terms, conditions, uses, and site development plan as approved in the Master Development Plan.
  - (5) Multi-family dwelling units may be located in structures that are comprised of residential units only or in mixed-use buildings that contain a combination of residential and non-residential uses. However, where residential uses are located in structures having frontage on Congress Avenue except if development is 100 percent residential within 1,000 feet of the Tri-Rail Transit station, there must be nonresidential uses fronting on Congress Avenue on the ground floor.

## **Appendix A**

### **DEFINITIONS**

The following words, terms and phrases, when used in these Land Development Regulations, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**24-HOUR OR LATE NIGHT BUSINESSES.** Any restaurant, bar, lounge, nightclub, music hall, club, gasoline station, convenience store, convenience business, retail store, grocery store, laundromat or similar use which is or will, at any time during a calendar year, be open for business at any time between the hours of 12 midnight and 5 a.m. A 24-Hour or late night business shall not mean a hotel or motel unless any of the aforementioned uses are operated or will be operated between the hours of 12 midnight and 5 a.m. on the same property as, or otherwise in conjunction with, a hotel or motel use. [Amd. Ord. 41-01 8/7/01]

**ABUSED SPOUSE RESIDENCE.** A building, single-family dwelling, apartment, or part of a building utilized for the purposes of providing temporary residential shelter, emergency counseling, and information and referral services to abused spouses and their minor or dependent children, whether such residencies are operated on a profit or not-for-profit basis.

**ACCENT/TRIM.** An architectural element such as moldings, stucco banding, tile inset, medallions, pilasters, vents and louvers, etc. that is used to emphasize or supplement the architectural composition of a building. [Amd. Ord. 21-04 5/4/04]

**ACCESS ROADWAY.** A private roadway intended for access from private residences or private parking to a public or private street. An "Access Roadway" shall not exceed 600 feet in length or projected traffic count of 1,000 trips per day.

**ACCESSORY BUILDING STRUCTURE, OR USE.** A building, structure, or use on the same lot with, and of a nature customarily incidental and subordinate to, the principal building, structure, or use.

**ADDITION (TO EXISTING BUILDING).** Any walled and roofed expansion to the perimeter of a building in which the addition is connected to a load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall and is separated by independent perimeter load-bearing wall is new construction.

**ADULT ARCADE.** Any place or establishment operated for commercial gain which invites or permits the public to view adult material. [Amd. 11/13/90]

**ADULT BOOKSTORE/ADULT VIDEO STORE.** An establishment which sells or offers adult material for sale or rent for commercial gain; unless the establishment demonstrates either (1) the adult material is accessible only by employees and the gross income from the sale or rental of adult material comprises less than forty percent (40%) of the gross income from the sale or rental of goods or services at the establishment, or (2) the individual items of adult material offered for sale or rental comprise less than ten percent (10%) of the individual items, as stock in trade, publicly displayed in the establishment and which is not accessible to minors at the establishment. [Amd. 11/13/90]

**ADULT DANCING ESTABLISHMENT.** An establishment where employees engage in nudity or partial nudity regardless of whether the employees actually engage in dancing. [Amd. 11/13/90]

**ADULT DAY CARE CENTER.** Any establishment whether operated for profit or not, which undertakes through its ownership or management to provide, for a part of the 24-hour day, basic services to three or more adults, not related to the owner/operator by blood or marriage, who require such services. "Basic services" shall include, but not be limited to, providing a protective setting, social activities, leisure-time activities, self-care training, rest, nutritional services, and, when possible, speech and physical therapy.

**ADULT ENTERTAINMENT ESTABLISHMENT.** (A) Any adult arcade, adult bookstore/adult video store, adult novelty store, or adult dancing establishment; or any other establishment or business operated for commercial gain where any employee, operator or owner engages in nudity or partial nudity, including but not limited to: massage establishments, whether or not licensed pursuant to Chapter 480, Florida Statutes, tanning salons, modeling studios, or lingerie studios. (B) Excluded from this definition are any educational institutions where engaging in nudity or partial nudity is associated with a curriculum or program. (C) An establishment that possesses an Adult Entertainment License through Palm Beach County is presumed to be an Adult Entertainment Establishment. [Amd. Ord. 3-04 2/3/04]; [Amd. 11/13/90]

**ADULT GAMING CENTER.** Means any place or premises catering to persons 18 and over that mimic the look and feel of gambling venues where there are more than six (6) amusement games or machines which operate by the means of the insertion of a coin and which by means of skill may entitle the person playing or operating the game or machine to receive points or coupons which may be exchanged for merchandise only, excluding cash and alcoholic beverages, provided the cost value of the merchandise or prize awarded in exchange for such points or coupons does not exceed 75 cents on any game played are available to the public. The presence of games or gaming devices that are similar to, or in the nature of slot machines, shall result in a rebuttable presumption that the business at which such machines are located is an adult gaming center. [Amd. Ord. 58-04 10/19/04]

**ADULT MATERIAL.** Books, magazines, periodicals, or other printed matter, photographs, films, motion pictures, video cassettes, slides, or other visual representations; recordings, other audio matter; and novelties or devices which have as their primary or dominant theme subject matter depicting, exhibiting, illustrating, describing or relating to specified sexual activities or specified anatomical areas. [Amd. Ord. 37-07 9/18/07]

**ADULT NOVELTY STORE.** An establishment which sells or offers instruments, novelties, devices or paraphernalia which are designed for use in connection with specified sexual activities. [Amd. Ord. 3-04 2/3/04]

**ALCOHOLIC BEVERAGE ESTABLISHMENT.** Any business or commercial establishment, whether open to the public at large or entrance is limited by cover charge or membership requirements, including those licensed by the state for sale and-or service of alcoholic beverages, which include but are not limited to, any bar, stand alone bar, cocktail lounge, bottle club, hotel, motel, restaurant, night club, country club, cabaret, and meeting facility located in the City of Delray Beach in which alcoholic beverages, beer or wine are, or are available to be sold, dispensed, served, consumed, provided, possessed or offered for sale or consumption on the premises. [Amd. Ord. 42-03 11/18/03]; [Amd. 11/13/90]

**ALLEY.** A roadway which provides a secondary means of access to abutting properties, and not intended for general traffic circulation use by pedestrians or vehicles.

**ALTERATION.** Any change affecting the exterior appearance of an existing structure or improvement by additions, reconstruction, remodeling, maintenance, or structural changes involving changes in form, texture, materials, or color or any such changes in appearance in a specially designated historic site or historic interior. or; as applied to a building or structure, a change or rearrangement in the structural parts of the existing facilities, or an enlargement, whether by extending on a side, or by increasing the height, or the moving from one location or position to another.

**AMUSEMENT GAME FACILITIES.** Means any place or premises not considered an adult gaming center, which caters to families and children and where there are games such as pinball, air hockey, electronic games, and other similar coin operated games and the premises does not meet the definition of an Adult Gaming Center. [Amd. Ord. 58-04 10/19/04]

**ANIMAL HUSBANDRY.** An agricultural business for the breeding and caring for farm animals. (Ord. No. 07-17, § 17, 5-16-17)

**ANIMAL SHELTER.** A county, municipal, or public animal shelter or a duly incorporated or organized nonprofit organization operated as a bona fide charitable organization under Section 501(c)3 of the Internal Revenue Code devoted to the rescue, care, and/or adoption of stray, abandoned, or surrendered animals, and which does not breed animals. (Ord. No. 17-21, § 15, 10-19-21)

**ANIMATED SIGN.** A sign which uses movement or change of lighting to depict action or to create a special effect or scene. [Amd. Ord. 14-04 6/22/04]

**ANTENNA.** A transmitting and/or receiving device used for personal wireless services that radiates or captures electromagnetic waves, including directional antennas, such as panel and microwave dish antennas, and omni-directional antennas, such as whips, but excluding radar antennas, amateur radio antennas, and satellite dish antennas. [Amd. Ord. 21-97 6/3/97]

**ANTIQUÉ.** An object having special value or significance because of its age, made in a former period of at least 40 years ago. Such objects may include but are not limited to furniture, tableware, art, handicrafts, artifacts, linens, rugs, jewelry, curios, and vintage clothing and accessories. [Amd. Ord. 44-98 10/20/98]

**APARTMENT.** A type of dwelling unit, occupied by tenants, and located within a multiple family dwelling.

**APARTMENT BUILDING OR HOUSE.** A type of multiple family dwelling.

**APPROPRIATE TO SURROUNDINGS.** Bringing new buildings into an orderly relationship with landscape and nature, other buildings, and open areas; but this term does not mean uniformity in style or subordination to existing buildings. Again, scale and composition come into importance, related here to adjacent properties. Surroundings are not only the buildings within a neighborhood, but shall be considered as the total picture. Future surroundings must also be weighed. Advertising signs on buildings must be appropriate to the surroundings in the same way.

**APPURTENANCES.** That which is an accessory to another structure, including but not limited to stonewalls, fences, light fixtures, steps, paving, sidewalks, shutters, and signs.

**ARCADE.** A covered walk with mixed-uses, residential, or non-residential uses on one side and a line of arches or colonnades raised on columns or piers on the other side. For the purposes of this Code, a street is usually located adjacent to the side of the arcade which contains the line of arches or colonnades. [Amd. Ord. 21-04 5/4/04]

**ARCHAEOLOGICAL SITE.** Earthworks; any subsurface remains of historical, archaeological, or architectural importance; or any unusual ground formations of archaeological significance.

**ARCHITECTURAL COMPOSITION.** The scale, height, mass, proportion, color, form, style, detail, treatment, texture, construction material, and roof design of a project or building. [Amd. Ord. 21-04 5/4/04]

**ARCHITECTURAL FEATURES.** Any prominent element, including but not limited to spires, steeples, belfries, cupolas, domes, monuments, and widow's walks or distinctive characteristics related to architectural style, mass, general design, and general arrangement of the exterior of a building or structure, including the type, style, or color of roofs, windows, and doors. Architectural features include interior architectural features where the interior has been given historic designation. (Ord. No. 02-21, § 5, 3-2-21)

**AREA OF SHALLOW FLOODING.** A designated AO or VO Zone on the Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flood is unpredictable and indeterminate, and when velocity flow may be evident.

**AREA OF SPECIAL FLOOD HAZARD.** The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

**ARTICULATED PARAPET.** A parapet with height variations and decorative architectural treatment. [Amd. Ord. 21-04 5/4/04]

**ARTIST OR PROFESSIONAL ARTIST.** Means a practicing fine artist, generally recognized by critics and peers as a professional of serious intent and ability. Indications of a person's status as a professional artist include, but are not limited to, income realized through the sole commission of artwork, frequent or consistent art exhibitions, placement of artwork in public institutions or museums, receipt of honors and awards, and training in the arts. [Amd. Ord. 77-04 2/1/05]

**ARTWORK OR WORKS OF ART.** Means tangible creations by artists exhibiting the highest quality of skill and aesthetic principles and includes all forms of visual art conceived in any medium, material, or combination thereof, including paintings, sculptures, statues, engravings, carvings, frescos, stained glass, mosaics, mobiles, tapestries, murals, photographs, video projections, digital images, bas-relief, high relief, fountains, kinetic, functional furnishings such as artist designed seating and pavers, architectural elements designed by an artist, and artist designed landforms or landscape elements. [Amd. Ord. 77-04 2/1/05]

**ASSISTED LIVING FACILITY.** Any building or buildings, section of building, or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, whether operated for profit or not, which undertakes through its ownership or management to provide housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administration. "Personal services" means direct physical assistance with or supervision of the activities of daily living and the self-administration of medication and other similar services, which the Department of Elderly Affairs may define by rule. "Personal services" shall not be construed to mean the provision of medical, nursing, dental, or mental health services. An Assisted Living Facility that does not function in accord with the definition of "Community Residence" in these LDRs is not a community residence. [Amd. Ord. 01-10 1/19/10]; [Ord. 20-08 4/15/08] (Ord. No. 25-17, § 36, 7-18-17)

**AUTOMOBILE BROKERAGE.** The conduct of business resulting in the sale of an automobile other than when a part of new and/or used car sales. [Amd. 3/26/91]

**AUTOMOBILE DEALERSHIP, FULL SERVICE.** The provision of all services necessary to accommodate the sale and service of new automobiles including franchise sales. At a minimum, all of the following must be accommodated at the dealership site in order to qualify as a full service automobile dealership, franchise auto sales, auto repair, and auto service. [Amd. 3/26/91]

**AUTOMOTIVE RENTAL FACILITY, ACCESSORY.** A commercial establishment where the renting of small trucks and cargo vans up to and including three-quarter-ton trucks is accessory to a large-scale home improvement/hardware retail establishment. A large-scale home improvement/hardware retail establishment shall occupy at least 25,000 sq. ft. gross floor area. This use is regulated by Section 4.3.3(C). (Ord. No. 24-17 , § 5, 11-7-17)

**AUTOMOTIVE RENTAL FACILITY, NEIGHBORHOOD.** A commercial establishment used principally for renting vehicles such as cars, sport utility vehicles, small pick-up trucks and mini-vans that is located within a large retail shopping center or in an outparcel to a large retail shopping center. This use is regulated by Section 4.3.3(C). (Ord. No. 24-17 , § 5, 11-7-17)

**AUTOMOTIVE REPAIR FACILITY.** An establishment used for body work, mechanical repairs, or the painting of automotive vehicles.

**AUTOMOTIVE SALES AND SERVICE.** A commercial establishment used primarily for the display of automobiles for sale, along with their customary repair and maintenance facilities.

**AWNING SIGN.** A tenant identification sign designed as part of the awning. [Amd. Ord. 14-04 6/22/04]

**BALCONY.** A projecting platform on a building, sometimes supported from below, sometimes cantilevered; enclosed with a railing or balustrade. [Amd. Ord. 21-04 5/4/04]

**BANNER.** A temporary sign having the characters, letters, illustrations, or ornamentations applied to cloth, paper, or fabric of any kind with only the material for a backing. "Banner" shall include any animated or fluttering devices designed to attract attention. [Amd. Ord. 14-04 6/22/04]

**BASE BUILDING ELEVATION.** For the purposes of measuring building height, (1) for sites not located within a FEMA designated special flood hazard area (SFHA), a minimum of 18 inches (or less with approval by the City Engineer) and a maximum of 30 inches (which allows for 12 inches of freeboard) above the mean elevation of the crown of the street along the lot frontage or the average of the mean elevation of the crowns of the streets-for lots with multiple lot frontages; or, (2) for sites located within FEMA designated SHFA, as amended, the higher of (a) the minimum required base flood elevation, as required by FEMA and the Florida Building Code, as amended, and allowing up to 12 inches addition for freeboard; or, (b) the average crest of the dune located within the property limits, measured from north to south on the subject site. (Ord. No. 02-19, § 4, 4-16-19)

**BASE FLOOD.** See Section 10.2.2.

**BASE FLOOD ELEVATION.** The regulatory requirement for the elevation of structures as set forward by the adopted flood insurance rate maps (FIRM) created by the Federal Emergency Management Agency (FEMA). (Ord. No. 02-19, § 4, 4-16-19)

**BASEMENT.** That portion of a building having its floor subgrade below ground level on all sides.

**BAZAAR.** A market characterized by shops and stalls along a pathway, usually for the sale of miscellaneous articles. [Amd. Ord. 51-92 10/27/92]

**BEACH.** The zone of unconsolidated material that extends landward from the mean low water line to the place where there is marked change in material or physiographic form, or to the line of permanent vegetation, usually the effective limit of storm waves. Beach is alternatively termed "SHORE."

**BED AND BREAKFAST INN.** A use within a designated historic or contributing structure which provides temporary overnight guest accommodations for rent to nonpermanent residents. [Amd. Ord. 11-10 7/20/10]

**BEDROOM.** A room intended for, or capable of, being used for sleeping and that is at least 70 square feet in area. A room designated on building plan submittals as a "den", "library", "study", "loft", or other extra room that

satisfies the definition and is not a kitchen, living room, dining room or bath will be considered to be a bedroom for the purpose of computing bedroom area. [Amd. Ord. 8-02 3/5/02]

**BENEFITED AREA.** The geographical boundaries of the City including all future annexations and consolidations. [Amd. 10/23/90]

**BLANK WALLS.** Any wall or portion of a wall twenty (20) or more feet in length that is visible to the public and is without windows, doors, wall openings, or other architectural treatments. [Amd. Ord. 21-04 5/4/04]

**BLOCK.** A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways, or boundary lines of municipalities.

**BOARDING OR ROOMING HOUSE.** A building other than a hotel, motel, residential inn, or bed and breakfast used to provide lodging for compensation, and where more than one of the partitioned sections are occupied by separate families or rent is charged separately for the individual rooms or partitioned areas occupied by the renter or occupant. Individual living units may or may not be equipped with kitchen facilities; congregate dining facilities may be provided for the guest. A boarding or rooming house is not a community residence. [Amd. Ord. 13-00 6/20/00] (Ord. No. 25-17, § 36, 7-18-17)

**BOAT.** Any watercraft, including barges and airboats, designed, used, or capable of being used as a means of transportation on water.

**BOAT LIFT.** Any device fixed to the ground, a seawall, or a dock, designed to lift watercraft clear of the water.

**BOAT SLIPS.** An excavated area within a platted lot, which lot must abut a canal, lake, or other waterway, which excavated area may be used for docking or mooring of boats.

**BOAT TRAILER.** A trailer which is being used for, or is designated for, carrying boats.

**BOND.** A form of security including a cash deposit, surety bond, or instrument of credit in an amount satisfactory to the City Engineer and form approved by the City Attorney.

**BOTTLE CLUB.** A commercial establishment, operated for a profit, whether or not a profit is actually made, wherein patrons consume alcoholic beverages which are brought onto the premises and not sold or supplied to the patrons by the establishment, whether the patrons bring in and maintain custody of their own alcoholic beverages or surrender custody to the establishment for dispensing on the premises, and which is located in a building or other enclosed structure. This definition does not apply to sporting facilities where events sanctioned by nationally recognized regulatory athletic or sports associations are held or to bona fide restaurants licensed by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation. [Amd. Ord. 42-03 11/18/03]

**BREAKAWAY WALL.** A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building on supporting foundation system.

**BREAKAWAY WALL OR FRANGIBLE WALL.** A partition independent of supporting structural members that will withstand design wind forces, but will fail under hydrostatic, wave, and runup forces associated with the design storm surge. Under these conditions, the wall shall fail in a manner such that it breaks up into components that will minimize the potential for damage to life or adjacent property. It shall be a characteristic of a "BREAKAWAY WALL" or "FRANGIBLE WALL": that it shall have a horizontal design loading resistance of not less than ten nor more than 20 pounds per square foot.

**BUFFER, PERIMETER LANDSCAPE.** A strip of land which is required along the perimeter of a lot in which landscaping is used to provide a transition between abutting properties and/or adjacent rights-of-way.

**BUILDABLE AREA.** The portion of a lot remaining after the required setbacks have been provided.

**BUILDING.** A structure which encloses space; a structure which gives protection or shelter for any occupancy. The term "building" shall be construed as if followed by the phrase or part thereof. When separated by fire walls, each portion so separated shall be deemed a separate building.

**BUILDING ARTICULATION.** Delineation that expresses distinct portions of a building, typically through changes in the location of the building façade, in building height, and fenestration patterns. (Ord. No. 28-15, § 10, 12-8-15)

**BUILDING FRONTAGE.**

- (a) The building frontage for an interior lot is the portion of the lot abutting the primary street minus the required side setbacks. [Amd. Ord. 21-04 5/4/04]
- (b) The building frontage for the primary street side of a corner lot is the portion of the lot abutting the primary street minus the required side setbacks. [Amd. Ord. 21-04 5/4/04]
- (c) The building frontage for the secondary street side of a corner lot is the portion of the lot abutting the secondary street minus the required front and rear setbacks. [Amd. Ord. 21-04 5/4/04]
- (d) Building frontage is expressed in percentages and may vary from floor to floor. [Amd. Ord. 21-04 5/4/04]

**BUILDING HEIGHT.** The vertical distance from grade to the highest finished roof surface of a flat roof or to the mean level between eaves and ridge for gable, hip, or gambrel roofs. Within the CBD zoning district, vertical distance shall be measured to the soffit of a gable, hip, or gambrel roof and building height is also measured by stories. [Amd. Ord. 03-15 02/24/2015]

**BUILDING SUPPORT STRUCTURE.** Any structure which supports floor, wall, or column loads, and transmits them to the foundation. The term shall include beams, grade beams, or joists, and includes the lowest horizontal structural member exclusive of piles, columns or footings.

**BUSINESS OFFICE.** Any commercial activity conducted primarily in an office, which does not involve the sale of commodities or goods on the premises. This definition does not include a Medical Office. [Amd. Ord. 50-09 10/20/09]

**CALIPER.** An instrument used to measure the diameter of a tree. In common vernacular, often used interchangeably with the term diameter. [Amd. Ord. 37-06 9/19/06]

**CALL CENTER.** A centralized business office used for the purpose of receiving and transmitting a large volume of requests by telephone, operated by a company to administer incoming product support or information inquiries from consumers. Includes outgoing calls for, but not limited to, telemarketing, clientele, product services, and debt collection. [Amd. Ord. 22-11 7/19/11]

**CAMPER.** Any separate structure designed or used for human habitation, which can be attached to or detached from a pickup truck, and which has sufficient headroom for an adult six feet in height to stand upright. A pickup truck with a cap shall not be construed as a CAMPER.

**CANOPY COVERAGE.** The coverage of a tree, by its limbs and leaves, of the ground below. Often referred to as 'spread of canopy'. [Amd. Ord. 37-06 9/19/06]

**CANOPY SIGN.** A pedestrian oriented sign which is suspended from, attached to, supported from, or forms a part of a canopy. [Amd. Ord. 14-04 6/22/04]

**CAPITAL IMPROVEMENT PROJECT.** Means all construction projects, excluding underground infrastructure projects, (which include, but are not limited to water mains, sewer main, storm drainage, wastewater or any other underground utility), included in the City's Capital Improvement Annual Plan involving construction of new capital

facilities, additions to capital facilities, or major remodeling of capital facilities. Land, equipment purchases, repair, software, personal property purchases and maintenance costs are excluded. [Amd. Ord. 77-04 2/1/05]

**CARETAKER.** A person or couple employed for security or maintenance purposes.

**CARPORT.** A roofed area used for the storage of one or more motor vehicles.

**CAR WASH.** A commercial activity used primarily for the washing of motor vehicles.

**CERTIFICATE OF APPROPRIATENESS.** A written document allowing specified alterations, demolition, construction, or other work to a designated historic site, or for a building or structure within a designated historic district.

**CHANGEABLE COPY SIGN.** A sign on which a message copy is changed through moveable letters, numbers, etc. [Amd. Ord. 14-04 6/22/04]

**CHILD CARE FACILITY.** An establishment in which custodial care is rendered to six or more children unrelated to the operator, and for which the owner or operator receives a payment, fee, or grant for any of the children receiving care, whether or not operating for profit. [Amd. Ord. 25-10 10/19/10]

**CIVIC BUILDING.** A public building dedicated to arts, culture, education, recreation, worship, or government. (Ord. No. 28-15, § 10, 12-8-15)

**CLUB.** A building or facility owned or operated by an association, corporation, person, or persons, for an educational, recreational, or social purpose, and to which membership is required for participation, but not primarily for profit or to render a service which is customarily restricted to members and their guests. For the purpose of this code, a building or facility owned by a residential homeowners association and operated by it for the social, educational, or recreational benefit of its members, and to which membership is reserved exclusively for the on-site residents, shall not be considered a "Club."

**CLUSTER DEVELOPMENT.** A group of single or multiple-family dwelling units developed around an open space area which is owned in common by all the owners living within the development.

**COASTAL BARRIER ISLANDS.** Geological surface features which are completely surrounded by marine waters that front upon the open waters of the Gulf of Mexico, Atlantic Ocean, Florida Bay, or Straits of Florida and are composed of quartz sands, clays, limestone, oolites, rock, coral, coquina, sediment, or other material, including soil disposal. Mainland areas which were separated from the mainland by artificial channelization for the purpose of assisting marine commerce shall not be considered "COASTAL BARRIER ISLANDS."

**COASTAL BUILDING ZONE.** For mainland areas which front directly upon the open waters of either the Gulf of Mexico, Atlantic Ocean, Florida Bay, or Straits of Florida, the land area between the seasonal high-water line and a line 1500 feet landward from the coastal construction control line.

**COASTAL CONSTRUCTION CONTROL LINE.** See Section 10.2.2.

**COASTAL HIGH HAZARD AREA.** See Section 10.2.2.

**COIN-OPERATED AMUSEMENT DEVICE.** Means an amusement machine, device, or instrument operated by means of the insertion of a coin, bill, currency, credit card, debit card, token or slug for use as a game, contest of skill or amusement of any description operated in accordance with 849.161, Fla. Stat. This definition is not intended to and does not include merchandise vending machines or coin-operated mechanical or electrical instruments or devices. Amd. Ord. 58-04 10/19/04]

**COLLECTOR STREET.** A street which carries traffic from local streets to arterial streets and includes the principal entrance streets from a subdivision or development where projected traffic count on the "Collector Street" exceeds 2,000 trips a day.

**COMBUSTIBLE SIGN.** Any sign or sign structure which has an internal electrical circuit which may ignite or support flames and which has a low flame point. Prime examples of combustible signs would be wood, cloth, and the like.

**COMMISSION.** The Commission of the City of Delray Beach.

**COMMUNITY GARDEN.** Any piece or pieces of land gardened by a group of people, utilizing either individual or shared plots on private or public land. The land may be used only for the production of fruits, vegetables, herbs, edible mushrooms, flowers, and/or ornamental plants and the gardens are reviewed by the City's Green Implementation Advancement Board, pursuant to the Community Garden Program. (Ord. No. 07-17, § 17, 5-16-17)

**COMMUNITY RESIDENCE.** Except as required by state law, a community residence is a residential living arrangement for up to ten unrelated individuals with disabilities living as a single functional family in a single dwelling unit who are in need of the mutual support furnished by other residents of the community residence as well as the support services, if any, provided by the staff of the community residence. Residents may be self-governing or supervised by a sponsoring entity or its staff, which provides habilitative or rehabilitative services, related to the residents' disabilities. A community residence seeks to emulate a biological family to normalize its residents and integrate them into the surrounding community. Its primary purpose is to provide shelter in a family-like environment; treatment is incidental as in any home. Supportive inter-relationships between residents are an essential component. (Ord. No. 25-17, § 36, 7-18-17)

A community residence shall be considered a residential use of property for purposes of all zoning, building, and property maintenance codes. The term does not include any other group living arrangement for unrelated individuals who are not disabled nor residential facilities for prison pre-parolees or sex offenders. Community residences include, but are not limited to, those residences that comport with this definition that are licensed by the Florida Agency for Persons with Disabilities, the Florida Department of Elderly Affairs, the Florida Agency for Health Care Administration, and the Florida Department of Children and Families, and functional family sober living arrangements also known as recovery residences certified by the state's designated credentialing entity established under Section 397.487 of the Florida Statutes. (Ord. No. 25-17, § 36, 7-18-17)

Per state law, community residences for people with developmental disabilities located in a "planned residential community" as defined by Section 419.001(1)(d) of the Florida Statutes, are exempt from the spacing requirements between community residences established in these LDRs. (Ord. No. 25-17, § 36, 7-18-17)

To implement these LDRs, an application that the City of Delray Beach designates must be completed in full and submitted to the Director of the Planning, Zoning, & Building Department prior to occupancy or construction of the proposed community residence to determine whether the proposed community residence is a permitted use or requires a conditional use permit, to determine the maximum number of occupants allowed under city code provisions that apply to all residential uses, and to identify whether any further accommodation is needed in accord with Section 2.4.7(G), "Requests for Accommodation" of these LDRs. (Ord. No. 25-17, § 36, 7-18-17)

A community residence or its operator that loses its license or certification must cease operations and vacate the property within 60 days of the date on which its licensing or certification was discontinued or the date required by state law, whichever is less. (Ord. No. 25-17, § 36, 7-18-17)

A "community residence" occupied by four to ten unrelated individuals with disabilities can be a "family community residence" or a "transitional community residence." The owner or operator of a community residence may apply for an administrative reasonable accommodation to house more than ten residents in accord with the standards and procedures established in Section 2.4.7(G) of these LDRs. (Ord. No. 25-17, § 36, 7-18-17)

**COMPATIBLE/COMPATIBILITY.** Design which utilizes accepted site planning (e.g. building placement orientation and siting) and the elements of architectural composition within the context of the surrounding area.

Similar adjacent land uses or square footage shall not necessarily constitute architectural compatibility. [Amd. Ord. 21-04 5/4/04]

**COMPLEMENT/COMPLEMENTARY.** Having similar architectural composition. [Amd. Ord. 21-04 5/4/04]

**CONDITIONAL USE.** A use that would not be appropriate generally or without restriction throughout a zoning classification or district. Such uses, however, if controlled as to area, location, number, or relation to the neighborhood, would promote public appearance, comfort, convenience, general welfare, good order, health, morals, prosperity, and safety of the city.

**CONDOMINIUM.** A form of ownership, wherein interest of a dwelling unit in a multiple family structure is conveyed through air rights, and owners share ownership and maintenance responsibility for common areas (grounds, exterior walls, recreational facilities, etc.).

**CONSTRUCTION.** The building of or substantial improvement to any structure or the clearing, filling, or excavation of any land. When appropriate to the context, "CONSTRUCTION" refers to the act of construction or the result of construction.

**CONTINUING CARE FACILITY.** A facility which furnishes shelter and either nursing care or personal services, pursuant to an agreement, whether such nursing care or personal services are provided in the facility or in another setting designated by the contract for continuing care to an individual not related by consanguinity or affinity to the provider furnishing such care, upon payment of an entrance fee. Other personal services provided shall be designated in the continuing care contract. Contracts to provide continuing care include agreements to provide care for any duration, including contracts that are terminable by either party. "Personal services" means direct physical assistance with or supervision of the activities of daily living and the self-administration of medication and other similar services which the Department of Elderly Affairs may define by rule. "Personal services" shall not be construed to mean the provision of medical, nursing, dental or mental health services. Continuing Care Facilities shall be accommodated in the same manner with respect to the number of residents and the number of units as required for the respective structures of either a single family unit, duplex unit or multi-family unit in the zoning districts where allowed. Requests for exemptions to the number of residents can be requested through a reasonable accommodation request pursuant to LDR Section 2.4.7(G). [Amd. Ord. 01-10 1/19/10]; [Ord. 20-08 4/15/08]

**CONTRIBUTING STRUCTURE.** (Also referred to as a Historic Structure): A structure which adds to the historical architectural qualities, historic associations, or archaeological values for which a district is significant because it was present during the period of significance of the district, possesses historic integrity reflecting its character at that time, is capable of yielding important information about the period, or independently meets the National Register of Historic Places criteria for evaluation. [Ord. 38-07 2/5/08]

**COST OF ALTERATIONS OR REPAIRS.** The estimated cost of repairs or alterations if done by a professional contractor, duly licensed to effect those repairs or alterations, as determined by the Chief Building Official using generally accepted practices for estimating cost; through the use of current construction cost data.

**DEBRIS.** Remains of anything broken down or destroyed, ruins, fragments, rubbish, trash, waste material, litter, and rubble.

**DEMOLITION.** The act or process of wrecking, destroying, or removing any building or structure, or any exterior or structural part thereof. The process of removing or destroying an archaeological site or a part thereof.

**DENSITY.** The ratio of the number of dwelling units in relation to the area included within the property lines.

**DEPARTMENT STORE.** A retail establishment conducted within one building and which provides for the sale of specialty items (hardware, clothing, toys, auto accessories, kitchen/bath accessories, appliances, cards, and the like) in individual departments which, generally, have a separate cashier. However, a central cashier system may

be used. This definition does not preclude the sale of specialty items on an incidental basis in a general retail establishment; nor does it apply to retail establishments of less than 5,000 square feet.

**DESIGNATED EXTERIOR.** All outside surfaces of any improvement, building, or structure defined in a historic preservation survey as having significant value to the historic character of the building, district, or city.

**DIAMETER.** The Diameter of a tree measured at 4½ feet above grade. [Amd. Ord. 37-06 9/19/06]

**DIRECTIONAL SIGN.** An on premise, incidental sign designed to guide or direct pedestrians or vehicular traffic. [Amd. Ord. 78-06 1/2/07]; [Amd. Ord. 14-04 6/22/04]

**DIRECTORY SIGN.** A sign listing the tenant's names, locations, buildings or group of buildings. [Amd. Ord. 14-04 6/22/04]

**DISABILITY.** A disability is a physical or mental impairment that substantially limits one or more of an individual's major life activities, impairs an individual's ability to live independently, having a record of such an impairment, or being regarded as having such an impairment. People with disabilities do not include individuals who are currently using alcohol, illegal drugs, or using legal drugs to which they are addicted nor individuals who constitute a direct threat to the health and safety of others. (Ord. No. 25-17, § 36, 7-18-17)

**DOCK.** Any structure and appurtenances thereto extending into or above any body of water, designed and used primarily for the securing of watercraft, fishing, swimming, or other water-related activity.

**DOLPHIN.** A single pile or cluster of closely driven piles used as a fender for a dock or as a mooring or a guide for watercraft, but not used as a channel marker or as a dock piling.

**DOMESTIC ANIMALS.** Historically domesticated companion animals such as dogs, cats, birds, or other tamed animals. (Ord. No. 17-21, § 15, 10-19-21)

**DOMESTIC ANIMAL SERVICES.** Places of business, either for profit or not for profit, that provide services for the care and well-being of domestic animals including veterinary clinics, pet service facilities, pet hotels, and animal shelters. (Ord. No. 17-21, § 15, 10-19-21)

**DRIPLINE.** An imaginary line on the ground defined by the vertical lines which extend from the outer most tips or canopy, to the ground. [Amd. Ord. 37-06 9/19/06]

**DRIVE-IN RESTAURANT OR REFRESHMENT STAND.** 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.

**DUNE.** A mound or ridge of loose sediments, usually sand-sized, deposited by natural or artificial means, which lies landward of the beach.

**DWELLING.** A structure designed, for occupancy by permanent residents. A dwelling may include incidental uses normally associated with permanent residential use, eg. garages, storage, etc. This excludes trailers, hotels, lodging houses, motels, tents and recreational vehicles.

**DWELLING, MULTIPLE FAMILY.** A residential building containing three or more dwelling units, or one or more dwelling units in a building that contains non-residential uses in the Central Business District. [Amd. Ord. 03-15 02/24/2015]; [Amd. Ord. 13-00 6/20/00].

**DWELLING, SINGLE-FAMILY.** A detached residential building other than a mobile home, designed for occupancy by one family. [Amd. Ord. 13-00 6/20/00]

**DWELLING, TWO-FAMILY (DUPLEX).** A detached residential building containing two dwelling units, designed for occupancy by two families. [Amd. Ord. 13-00 6/20/00]

**DWELLING UNIT.** One or more rooms connected together, designed to be occupied by one family, constituting a separate, independent housekeeping establishment and physically separated from any other dwelling unit which may be in the same structure, and which contains independent sanitation, living, cooking and sleeping facilities. [Amd. Ord. 13-00 6/20/00]

**DWELLING UNIT, EFFICIENCY.** A type of dwelling unit consisting of not more than one habitable room together with kitchen or kitchenette and sanitary facilities. [Amd. Ord. 13-00 6/20/00]

**EASEMENT.** A right granted for limited use of private property for a public or quasi-public purpose.

**ECOSYSTEM.** A characteristic assemblage of plant and animal life within a specific physical environment, and all interactions among species, and between species and their environment.

**ELECTRICAL CONSTRUCTION.** All work and material used in installing, maintaining, and extending a system of electrical wiring for lights, heat, or power, and all appurtenances thereto; and all apparatus or equipment used in connection therewith, inside of, or attached to any building, lot or premises, done by licensed electricians, public utilities, companies, or firms, corporations, or individuals.

**ELECTRICAL CONTRACTOR.** A person engaging in the business of electrical contracting. The individual in charge of the electrical installations for that person shall have passed the Department of Professional Regulation or the county competency test and registered same with the state or have passed the state certification examination.

**ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE (EPAMD).** Any self-balancing, two-nontandem-wheeled device, designed to transport only one person, with an electric propulsion system with an average power of 750 watts (1 horsepower), the maximum speed of which, on a paved level surface when powered solely such a propulsion system while being ridden by an operator who weighs 170 pounds, is less than 20 miles per hour. [Amd. Ord. 04-11 4/5/11]

**ELEVATED BUILDING.** A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (post and piers), shear walls, or breakaway walls.

**ENCROACHMENT, VEHICULAR.** Any protrusion of a vehicle outside of a parking space, display area or accessway into a landscaped area. There shall be no "Encroachment" over or into any landscaped area. Car stops shall be placed at least two feet from the edge of the landscaped area. In order to prevent encroachment and maintain a neat and orderly appearance of all planting islands adjacent to accessways or traffic, a proper protective curbing is required. Where car stops in parking spaces prevent encroachment, no other curbing is required.

**ENGINEER.** A person registered to practice engineering by the Florida State Board of Engineers and Land Surveyors Examiners.

**ENTRANCE GATES.** An identification structure to a city-approved subdivision or commercial development and necessary directional signs.

**EXCEPTIONAL SPECIMEN TREE.** Any tree determined to be of value to the public because of its size, location, age, historic association, ecological value, aesthetics or other unique characteristics. [Amd. Ord. 37-06 9/19/06]

- (a) *Size:* Twenty-four (24) caliper inches or more.
- (b) *Location:* Proximity to a thoroughfare or highly traveled area.
- (c) *Age:* Approximate-based on size.
- (d) *Historic Association:* Tree is associated with a notable or local or regional historical event.
- (e) *Aesthetics:* Exceptional representation of a certain species of tree because of its form or character.

**EXEMPT TREES.** Trees that do not require a permit for removal.

**EXISTING MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION.** A parcel (or contiguous parcels) of a land divided into two or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lot on which the manufactured home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before May 8, 1978.

**EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION.** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets).

**EXTERIOR.** All outside surfaces of any building or structure.

**FACADE.** That portion of any exterior elevation of a building extending from grade to the top of the parapet wall or eaves and the entire width of the building elevation.

**FAMILY.** "Family" shall mean two or more persons living together and interrelated by bonds of consanguinity, marriage or legal adoption, and/or a group of persons not more than three in number who are not so interrelated, occupying the whole or part of a dwelling as a single housekeeping unit that shares common living, sleeping, cooking, and eating facilities. Any person under the age of 18 years whose legal custody has been awarded to the State Department of Health and Rehabilitative Services or to a child-placing agency licensed by the Department, or who is otherwise considered to be a foster child under the laws of the state, and who is placed in foster care with a family, shall be deemed to be related to and a member of the family for the purposes of this definition. Occupancies in excess of the number allowed herein shall have 12 months from the date of the enactment of this definition or the termination of the current lease agreement to come into compliance, whichever occurs first. Anyone who has applied for or received a reasonable accommodation from this definition prior to June 16, 2009 shall be allowed to proceed under the definition in existence on June 16, 2009 with the total number granted under the reasonable accommodation without having to re-file an application for a reasonable accommodation. A family does not include any society; nursing home; club; boarding or lodging house; dormitory; fraternity; sorority; or group of individuals whose association is seasonal or similar in nature to a resort, motel, hotel, boarding or lodging house. [Amd Ord. 27-09 7/7/09]; [Amd. 1/8/91] (Ord. No. 25-17, § 36, 7-18-17)

**FAMILY COMMUNITY RESIDENCE.** A family community residence is a relatively permanent living arrangement for four to ten unrelated people with disabilities with no limit on how long a resident may live in the home. The length of tenancy is measured in years. Oxford House is a family community residence. (Ord. No. 25-17, § 36, 7-18-17)

**FAMILY DAY CARE HOME.** An accessory use conducted in an occupied residence in which custodial care is rendered to one to six children, inclusive, and for which the owner or operator receives a payment, fee, or grant for any of the children receiving care, whether or not operating for profit. Baby-sitting services provided by an

individual at the home of the parents or legal guardians is not deemed to be a Family Day Care Home. [Amd. Ord. 25-10 10/19/10]

**FENESTRATION.** The arrangement of windows and doors on the elevations of a building. (Ord. No. 28-15, § 10, 12-8-15)

**FINGER PIER.** A structure, not exceeding five feet in width, which projects into the waterway perpendicular to the seawall, bulkhead line, or property line and extends more than five feet from the seawall, bulkhead line, or property line.

**FLAG.** A piece of cloth usually attached at one edge to a staff/pole or cord. [Amd. Ord. 78-06 1/2/07];[Amd. Ord. 5-93 2/9/93]

**FLAT WALL SIGN.** A sign erected parallel to the building to which it is attached, and supported entirely by the façade. [Amd. Ord. 14-04 6/22/04]

**FLEA MARKET.** A market, usually in the open air, selling antiques, used household goods, curios, or the like. [Amd. Ord. 51-92 10/27/92]

**FLOOD HAZARD BOUNDARY MAP (FHBM).** An official map of a community, issued by the Federal Insurance Administration, where the boundaries of the area of special flood hazard have been designated as Zone A.

**FLOOD INSURANCE RATE MAP (FIRM).** See Section 10.2.2.

**FLOOD INSURANCE STUDY.** See Section 10.2.2.

**FLOOD OR FLOODING.** See Section 10.2.2.

**FLOODWAY.** See Section 10.2.2.

**FLOOR.** The top surface of an enclosed area in a building (including basement), such as, top of slab in concrete construction or top of wood flooring in wood frame construction. The term does not include the floor of the garage used solely for parking vehicles.

**FLOOR AREA RATIO.** The term "Floor Area Ratio" shall mean the ratio of the "total floor area" of the structure(s) to the area of the lot. "Total Floor Area" shall be defined as the gross horizontal areas of all floors of all buildings measured from the exterior walls or other types of enclosures and shall include garages, carports and port-cocheres. The floor areas of attics (unless used as a living space), enclosed decks or patios, covered porches, exterior balconies (covered or uncovered) or crawl spaces are excluded from the total floor area used in the Floor Area Ratio calculation. [Amd. Ord. 24-08 6/17/08]

**FREEBOARD.** The allowance for additional height in the base building elevation above minimum requirements solely for the purpose of providing additional floodproofing; may not be used for the purpose of increasing building volume. (Ord. No. 02-19, § 4, 4-16-19)

**FREE-STANDING FEATURES.** Equipment not intended for human occupancy and placed or constructed on a property, parcel, or site without being attached to a building such as antennae, satellite dishes, industrial conveyors, flag poles, radio and television towers, and silos. Free-standing features do not include signs. (Ord. No. 02-21, § 5, 3-2-21)

**FREESTANDING SIGN.** A free-standing sign is not affixed to any other structure and is limited to no more than two (2) faces. It may be either a pole sign or monument sign. All signs erected on a pole shall have a pole cover. All free-standing signs shall contain the street number. [Amd. Ord. 78-06 1/2/07]; [Amd. Ord. 14-04 6/22/04]

**FRONTAGE.** A lot boundary adjoining a street. [Amd. Ord. 43-98 11/3/98]

**FRONTAGE WALL FACE.** The building facade, including parapet and fascia, excluding soffit, mansard, and roof, which faces the frontage of the premises.

**FUNCTIONALLY DEPENDENT FACILITY.** A facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility for loading and unloading of cargo or passengers, ship building, ship repair, or seafood processing facilities, excluding long-term storage, manufacture, sales, or service facilities.

**GARAGE APARTMENT.** A dwelling unit in an accessory building which contains an enclosed space for one (1) or more motor vehicles; and which dwelling unit is for occupancy by permanent residents. However, habitation as a non-permanent residence is allowed on a one-time basis per annum for an annual/seasonal tenancy.

**GARAGE, PRIVATE.** A detached accessory building, or a portion of the principal structure, used for the storage of automobiles owned by the occupants of the premises.

**GARAGE, STORAGE.** Any building or portion thereof, excluding a private garage, used exclusively for the parking or storage of motor vehicles. Services other than storage shall be limited to lubrication, polishing, refueling, and washing.

**GARISH.** Too bright or gaudy; showy, glaring; also cheaply brilliant or involving excessive ornamentation.

**GASOLINE PRICING SIGN.** A sign incorporated into a gasoline station identity sign, for display of the price changes. [Amd. Ord. 14-04 6/22/04]

**GASOLINE STATION.** An establishment used for the sale and delivery of fuel, lubricants, and other products necessary to the operation of automobiles. It may also include the sale and installation of accessories, tires, batteries, seat covers, tire repair, minor engine tune-ups, wheel balancing and aligning, brake servicing, washing, and minor automotive repair. (See 4.3.3(J)).

**GREENHOUSE.** An enclosed structure (usually with glass) for the production of fruits, vegetables, herbs, flowers, and/or ornamental plants. (Ord. No. 07-17, § 17, 5-16-17)

**GROSS FLOOR AREA.** The total floor area contained within a building measured from the exterior surface of outer building walls. [Amd. Ord. 01-09 1/20/09]

**GROUND COVER.** Plant materials characterized by low, dense growth, generally horizontal and providing 100% ground coverage of a specified area at maturity.

**GROUND SIGN.** A sign affixed to the ground and supported by poles, uprights, or braces extending from the ground or a permanently mounted object on the ground but not attached to any part of a building. [Amd. Ord. 44-04 8/17/04]

**GROUND FLOOR BUILDING AREA.** The square feet of floor space measured from the exterior faces of the exterior walls of the ground floor of all principal and accessory buildings on the lot. [Amd. Ord. 24-01 4/17/01]

**GUEST APARTMENT.** A room or suite of rooms which is part of the main structure, and is intended to be occupied as the home or residence of the immediate family.

**GUEST COTTAGE.** An accessory building used exclusively for housing members of the family occupying the principal dwelling, their nonpaying guests, paying guests at a Bed and Breakfast Inn, or persons employed for service on the premises. A Guest Cottage shall consist of no more than one dwelling unit and may be affixed to an accessory structure. [Amd. Ord. 11-10 7/20/10]; [Amd. Ord. 56-01 10/16/01]

**GUEST HOUSE.** A dwelling containing rooms which are rented for the temporary care or lodging of transients and travelers, and advertised as such to the general public GUEST HOUSES are prohibited.

**GUEST UNIT.** A dwelling unit which is located within a single family dwelling. A Guest Unit may only be occupied by members of the immediate family of the occupants of the single family dwelling or occupied by persons employed for service on the premises.

**GUYED TOWER.** A telecommunication tower that is supported, in whole or in part, by guy wires and ground anchors. [Amd. Ord. 21-97 6/3/97]

**HARDSCAPE.** Consists of the inanimate elements of landscaping, especially masonry or wood work such as concrete or brick patios and pool decks, tile paths and wooden decks. [Ord. 38-07 2/5/08]

**HATRACKING.** To flat-cut the top of a tree, severing the leader or leaders; or pruning a tree by stubbing off mature wood larger than three (3) inches in diameter; or reducing the total circumference or canopy spread not in conformance with National Arborists Association standards.

**HEDGE.** A landscape barrier consisting of continuous, dense planting of shrubs, all of the same species.

**HEIGHT (OF A SIGN).** The vertical distance measured from the highest point of the sign, to the grade at the base of the sign. [Amd. Ord. 14-04 6/22/04]

**HISTORIC DISTRICT.** A geographically defined area which has been designated as a historic district under the procedures described in this code. Any historic district may have within its area non-historic buildings or other structures that contribute to the overall visual character of the district.

**HISTORIC SITE.** (Also referred to as Individually Designated Site/Property): Any site, building, structure, feature, or improvement which has been designated as a historic site and which may be located outside of a designated historic district. [Ord. 38-07 2/5/08]

**HISTORIC SITE SURVEY.** A comprehensive survey designed to identify, research, and document building sites, and structures of any historic, cultural, architectural, or landmark importance in the city, which may be compiled in cooperation with state and local public and non-profit historic preservation organizations. [Ord. 38-07 2/5/08]

**HISTORICAL IDENTIFICATION SIGN.** A sign which contains only historical information of general interest concerning the building or site upon which it is placed.

**HOME SUBDIVISION.** A parcel (or contiguous parcels) of a land divided into two or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lot on which the manufactured home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before May 8, 1978.

**HONEST DESIGN CONSTRUCTION.** Proper design of all work in its details, the uses of weather-resistant material, and the like, and applies also to advertising. Poorly designed work must always be discouraged.

**HOTEL.** A facility offering transient lodging accommodations to the general public (open to the public at large), usually at a daily rate. A hotel may also contain accessory uses as otherwise permitted within the underlying zone district. A hotel shall have an inner lobby through which seventy-five percent (75%), or more of all occupants must pass to gain access to their rooms. [Amd. Ord. 13-00 6/20/00]

**IDENTIFICATION SIGN.** A sign, indicating the name of the primary use. [Amd. Ord. 14-04 6/22/04]

**ILLEGAL SIGN.** A sign which does not meet the requirements of this code and which has not received legal nonconforming status. [Amd. Ord. 78-06 1/2/07]

**ILLUMINATED SIGN.** A sign with an internal or external artificial light source. [Amd. Ord. 14-04 6/22/04]

**IMPROVEMENT.** Any building, structure, fence, gate, wall, walkway, parking facility, light fixture, bench, foundation, sign, work of art, earthworks, sidewalk, or other man-made object constituting a physical change or betterment of real property, or any part or portion of such change or betterment.

**INCLUDES.** Shall not limit a term to the specified examples, but is intended to extend its meanings to all other instances or circumstances of like kind or character.

**INDEPENDENT TRUSTEE.** A trustee, not affiliated with a commercial bank, providing any of the following trust services: as personal representative (executor) of estates; trustee of living and testamentary trusts; and as custodian of securities (Ord., passed 4-1-80)

**INDUSTRIAL EQUIPMENT.** Bulldozers, cranes, drag lines, derricks, tractors, and implements, heavy earth moving equipment, tar pots or boilers, and road grading equipment, normally used in farming or heavy construction activities.

**IN-FILL DEVELOPMENT.** The development of a single parcel having frontage on one street or two streets for a corner parcel, and is surrounded by buildings on two or more sides. [Amd. Ord. 02-08 2/19/08]; [Amd. Ord. 74-04 1/18/05]

**INSTITUTIONAL USES.** Shall mean a facility which provides intense around the clock treatment and/or testing such as: Hospitals, Treatment Centers, Rehabilitation Centers, Testing Facilities, Mental Health Treatment Facilities, and Non-Residential Licensed Service Provider Facilities. [Amd. Ord. 09-11 4/5/11]

**IRRIGATION SYSTEM.** A permanent, artificial watering system designed to transport and distribute water to plants.

**KITCHEN.** Any room containing any or all of the following equipment; dishwasher, large refrigerator, stove, microwave oven, counters for food preparation, and/or cabinets or shelves for the storage of food. However, a room containing a small refrigerator, a coffee pot or a wet bar shall not be considered a kitchen.

**LAND CLEARING.** The removal or grubbing, by any means, of any type of vegetation from land. Land clearing also includes the removal of trees greater than 4 inches in caliper when measured at six (6) inches above grade. [Amd. Ord. 37-06 9/19/06]

**LAND DEVELOPMENT APPLICATION.** A request for any of the processes which are necessary to obtain development permission including, but not limited to, the processing of annexations, rezonings, conditional uses, site plans, landscaping plans, architectural elevations. [Amd. 3/26/91]

**LANDSCAPE PLAN OF RECORD.** The landscape plan approved by the City during the initial development proposal, or the most recent approved modification or revision of the approved plans. This plan shall govern the landscaping permitted and required on the site, and shall be maintained for the life of the project. [Amd. Ord. 37-06 9/19/06]

**LAND SURVEYOR.** A land surveyor registered under F.S. Chapter 472, who is in good standing with the Florida State Board of Engineers and Land Surveyors.

**LANDSCAPE FEATURE.** Any improvement or vegetation including, but not limited to: outbuildings, walls, courtyards, fences, shrubbery, trees, sidewalks, planters, plantings, gates, street furniture, exterior lighting. **LANDSCAPE FEATURES** also include site improvements such as, but not limited to, subsurface alterations, site regrading, fill deposition, paving, and signs.

**LANDSCAPING.** Any combination of living plants (such as grass, ground cover, shrubs, vines, hedges, or trees) and non-living landscape material (such as organic mulch, rocks or stones, walls, fences, or decorative paving materials).

**LARGE FAMILY CHILD CARE HOME.** An occupied residence in which custodial care is regularly provided for up to twelve children, and for which the owner or operator receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit, and which has at least two full-time child care personnel on the premises during the hours of operation. [Amd. Ord. 25-10 10/19/10]

**LAUNDRY AND DRY CLEANING, SELF-SERVICE.** A business rendering a retail service to individual customers by renting equipment, on-site, for the cleaning, drying, and washing of laundry.

**LICENSED SIGN ELECTRICIAN.** A person who possesses the necessary qualifications, training, and technical knowledge to plan, build lay out, and supervise the installation of all types of electrical signs.

**LINER BUILDING.** A building, minimum twenty foot (20') in depth, taken from the building frontage line to the rear of the building, with a storefront or a nonresidential use along the street. These buildings also are used to hide the ground floor of parking garages or blank building walls, restore gaps in the streetscape between buildings, or create new mixed-use spaces in small increments of development. When done in continuous sections, these buildings can provide continuous street frontages. Typically, a liner building footprint is not deeper than one row of parking spaces. [Amd. Ord. 21-04 5/4/04]

**LIVE/WORK UNIT.** A residential dwelling unit that includes flex space which may be used for an approved non-residential use. [Amd. Ord. 23-10 10/5/10]; [Amd. Ord. 21-04 5/4/04]

**LOADING SPACE, OFF-STREET.** Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to vehicles when required off-street parking spaces are filled. Required OFF-STREET LOADING SPACE is not to be included as off-street parking space in the computation of required off-street parking space.

**LOCAL REGISTER OF HISTORIC PLACES.** A listing and a means by which to identify, classify, and recognize various archaeological sites, buildings, structures, improvements, districts, and appurtenances as historically and/or architecturally significant.

**LOGGIA.** An arcade that is roofed but open along the front or side of a building, and often on an upper level [Amd. Ord. 21-04 5/4/04]

**LOGO.** A symbol bearing the name or initials of a company or business.

**LOT.** A parcel of land of sufficient size to meet minimum zoning requirements for use, coverage, and area, and provide the required setbacks and other open space as are herein required. A lot shall have frontage on an improved public street or on an approved private street. LOT includes the words plot or parcel.

**LOT CORNER.** A lot located at the intersection of two or more streets.

**LOT DEPTH.** The distance from the midpoint of the front lot line to the midpoint of the opposite main real line of the lot.

**LOT DOUBLE FRONTAGE.** A lot other than a corner lot having frontage on two non-intersecting streets.

**LOT FRONT.** The front of a lot is the side with frontage on a street. For corner lots, the side having the least street frontage shall be the front for setback purposes. Where a corner lot or through lot has frontage on an arterial or collector street, the front shall be the side with frontage on the arterial or collector. For lots with frontage on both an arterial and a collector, the front shall be the arterial frontage. Notwithstanding the previous description, if a limited access easement or limited access right-of-way runs the length of the frontage on a street, then the front of the lot shall be on a frontage without such access restrictions. [Amd. Ord. 43-98 11/3/98]

**LOT INTERIOR.** A lot other than a corner lot with frontage on one street only.

**LOT OF RECORD.** A lot which is part of a subdivision recorded in the office of the Clerk of the Circuit Court of Palm Beach County, Florida. Whenever a portion of an existing lot of record is replatted and contained in a new plat, that portion of the lot on the original plat which has not been replatted and included in the new plat shall not be considered a lot of record and shall not be presumed to satisfy the definition of lot as contained in this section or in 172.03.

**LOT THROUGH.** A lot other than a corner lot with frontage on more than one street. Through lots are also referred to as double frontage lots.

**LOT WIDTH.** The distance between the side lines of the lot measured at right angles to the depth at a point being at the front setback line.

**LOWEST FLOOR.** See Section 10.2.2. [Amd. Ord. 38-05 6/21/05]

**MAJOR STRUCTURE.** Residential buildings including mobile homes, commercial, institutional, industrial and other construction having the potential for substantial impact on coastal zones.

**MAJOR SUBDIVISION.** Any subdivision other than a minor subdivision. [Amd. 3/26/91]

**MANGROVE STAND.** An assemblage of mangrove trees which is mostly low trees noted for a copious development of interlacing adventitious roots above the ground and which contain one or more of the following species: black mangrove (*Avicennia nitida*); red mangrove (*Rhizophora mangle*); white mangrove (*Languncularia racemosa*); and buttonwood (*Conocarpus erecta*).

**MANSARD.** A roof with a pitch greater than eight inches vertically for every 12 inches horizontally and which is attached to the side of a building for decorative purposes.

**MANUFACTURED HOME.** A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

**MARGINAL ACCESS STREET.** A street which is parallel and adjacent to another street, the principal purpose of "Marginal Access Streets" being the reduction or elimination of the number of traffic conflicts caused by direct access points to abutting property from the other street, and the improvement of capacity, safety, and reduction of accidents thereby.

**MARIJUANA.** All parts of any plant of the genus *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, sale, derivative, mixture, or preparation of the plant or seed or resin that is dispensed only from a dispensing organization for medical use by an eligible patient as defined in § 499.0295, F.S., including low-THC cannabis, which are dispensed from a medical marijuana treatment center for medical use by a qualified patient as defined in § 381.986, F.S. Marijuana includes any strain of marijuana or cannabis, in any form, that is authorized by State law to be dispensed or sold in the State of Florida. Also referred to as "medical marijuana." (Ord. No. 34-17, § 3, 9-26-17)

**MARINA.** A recreational boating establishment located on a waterway which may provide covered or uncovered boat slips or dock space, dry boat storage, marine fuel and lubricants, marine supplies, restaurants or refreshment facilities, and boat sales or rentals. Minor pleasure boat and boat motor repair which is incidental to the principal marina use is allowed as an accessory use. Boat construction or reconstruction, dredge, barge, or other work dockage or service is not inherently a part of this definition.

**MARQUEE SIGN.** A sign attached to or supported by a marquee structure, which is a permanent roof-like structure or canopy extending from the façade of the building. [Amd. Ord. 14-04 6/22/04]

**MEAN HIGH WATER LINE.** The intersection of the tidal plane of mean high water with the shore. Mean high water is the average height of high waters over a 19-year period.

**MEAN SEA LEVEL.** The average height of the sea for all stages of the tide. It is used as reference for establishing various elevations within the flood plain. The term is synonymous with National Geodetic Vertical Datum (NGVD).

**MEDICAL CLINIC.** An establishment where patients, not lodged overnight except for emergency treatment and observation, including out-patient surgery, are admitted for examination and treatment by one or more persons practicing any form of healing or medical health services. Such persons may be chiropractors, dentist, naturopaths, opticians, optometrists, psychologist, surgeons, or any other medical profession, the practice of which is lawful in the state. [Amd. Ord. 09-10 7/20/10]

**MEDICAL LABORATORY.** An establishment whose primary role is the collection and/or testing of medical samples obtained from a medical office or on-site sampling of patients. [Amd. Ord. 09-10 7/20/10]

**MEDICAL MARIJUANA TREATMENT CENTER (MMTC)— DISPENSING FACILITY.** A retail establishment, licensed by the Florida Department of Health as a "dispensing organization," "dispensing organization facility," or similar use, that sells and dispenses marijuana, products containing marijuana, or related supplies, but does not engage in any other activity related to preparation, wholesale storage, distribution, transfer, cultivation, or processing of any form of marijuana, marijuana products, or related supplies, and does not allow on-site consumption of marijuana or marijuana products. (Ord. No. 34-17, § 3, 9-26-17)

**MEDICAL OFFICE.** Shall mean an office providing services to the public by physicians, dentists, surgeons, chiropractors, osteopaths, physical therapists, nurses, acupuncturists, podiatrists, optometrists, psychiatrists, (who are also known as health care practitioners) or others who are duly licensed to practice their respective professions in the State of Florida, as well as others, including but not limited to technicians and assistants, who are acting under the supervision and control of a licensed health care practitioner. Also included in this section shall be all providers or facilities licensed under Fla. Stat. Sections 397.311 (25)(a)3., "Day or Night Treatment", 397.31125(a)6, "Intensive Outpatient Treatment" and 397.311(25)(a)8, "Outpatient Treatment" and 397.311(25)(a)9., "Residential Treatment Levels 1 and 2 only as defined by F.A.C. 65D-30.007, as amended from time to time. [Amd. Ord. 11-11 4/5/11]; [Amd. Ord. 09-10 7/20/10]; [Amd. Ord. 50-09 10/20/09]; (Ord. No. 02-17, § 2, 1-24-17)

**MENU BOARD SIGN.** A changeable copy sign for displaying a menu selection and pricing of the items for sale. [Amd. Ord. 14-04 6/22/04]

**MERCHANDISE MART.** A market where groups of retailers sell goods at discounted, warehouse, or cost prices. [Amd. Ord. 51-92 10/27/92]

**METAL CURTAIN WALL.** An exterior building wall which carries no roof or floor loads and consists entirely or principally of metal, or a combination of metal and glass, and other surfacing materials supported by a metal framework. [Amd. Ord. 21-04 5/4/04]

**MINOR STRUCTURE.** Pile-supported, elevated dune, and beach walkover structures; beach access ramps and walkways; stairways; pile-supported elevated viewing platforms, gazebos, and boardwalks; lifeguard support stands; public and private bathhouses; sidewalks, driveways, parking areas, shuffleboard courts, tennis courts, handball courts, racquetball courts, and other uncovered paved areas; earth retaining walls, sand fences, privacy fences, ornamental walls, ornamental garden structures, aviaries, and other ornamental construction. It shall be a characteristic of minor structures that they are considered to be expendable under design wind, wave, and storm forces.

**MINOR SUBDIVISION.** Any subdivision which is, or involves, one of the following: 1. The creation of not more than three lots each of which fronts on an existing street, and which involve neither the extension of utilities, nor the providing of additional right-of-way; 2. The creation of a plat solely for the purpose of creating divided interests for a previously approved development, which is to be constructed pursuant to a master development or site plan, other than residential development. 3. A boundary plat; or 4. A one time splitting of an existing lot of record. [Amd. 3/26/91]

**MOBILE HOME.** A single-family dwelling unit designed for long-term occupancy, with plumbing and electrical connections provided for attachment to outside systems. A mobile home is transported to the site after fabrication, affixed to a foundation, and connected to utilities.

**MOBILE HOME.** Manufactured housing which conforms to the Federal Manufactured Housing Construction and Safety Standards or the Uniform Standards Code ANSI A-119.1 pursuant to \_\_\_\_\_.

**MONOPOLE TOWER.** A telecommunication tower consisting of a single pole or spire self supported by a permanent foundation, constructed without guy wires and ground anchors. [Amd. Ord. 21-97 6/3/97]

**MONUMENT SIGN.** A freestanding low profile sign with the sign area at the top of a solid base. [Amd. Ord. 14-04 6/22/04]

**MOTEL.** A facility offering transient lodging accommodations to the general public (open to the public at large), usually at a daily rate, with more than twenty-five percent (25%) of the rooms having individual entrances from outside the building. No provisions may be made for cooking in any individual room. Motels may have one (1) or more dining rooms, restaurants or cafes as accessory uses. [Amd. Ord. 13-00 6/20/00]

**MULCH.** Non-living organic and/or synthetic materials customarily used in landscape design to retard erosion and retain moisture, stabilize soil temperatures and reduce weed growth. Inorganic materials such as rocks and pebbles are not considered to be mulch materials. The use of plastic under mulch is discouraged as it reduces groundwater discharge.

**MURAL.** An original, one-of-a-kind unique mosaic, painting, or graphic art or combination thereof (including collage effects) that is professionally applied to aesthetically enhance the exterior of a building or accessory structure such as a dumpster enclosure, fence, or site wall, that does not contain any brand name, product name, letters of the alphabet spelling or abbreviating the name of any product, company, profession, or business, or any logo, trademark, trade name, or other commercial message. (Ord. No. 22-20, § 6, 8-26-20)

**NAMEPLATE SIGN.** A non-electric, on-premise identification sign giving only the name, address and/or occupation of the occupants. [Amd. Ord. 14-04 6/22/04]

**NATIONAL GEODETIC VERTICAL DATUM (NGVD).** A geodetic datum established by the National Ocean Service and frequently referred to as the 1929 Mean Sea Level Datum. The 1929 correction of the vertical control reference used for establishing varying elevations within the flood plain.

**NATIONAL REGISTER OF HISTORIC PLACES.** A federal listing maintained by the United States Department of the Interior of buildings, structures, and districts that have attained a quality of significance as determined by the Historic Preservation Act of 1966, as amended.

**NATURAL RESOURCE UTILITY.** A use which derives a primarily retail product directly from an extractive material, the atmosphere, or a naturally flowing fluid medium and which does not emit noxious fumes, glare, or noise not commonly expected or associated with the other uses surrounding the use.

**NATIVE PLANT COMMUNITY.** Associations of native plants which are found in areas with similar soil types and fertility, water availability, and climate, which result in a balanced and self-sustaining system. [Amd. Ord. 37-06 9/19/06]

**NEIGHBORHOOD ELECTRIC VEHICLE (NEV).** Any four-wheeled electric vehicle whose top speed is not greater than 25 miles per hour and a maximum load of 3,000 lbs., pursuant to the National Highway Traffic Safety Administration definition in 63 Federal Register 33913 published on June 17, 1998, and subject to the safety standards in 49 Code of Federal Regulations Section 571.500 and Section 316.2122, Florida Statutes, all as may be amended from time to time. (Ord. No. 36-16, § 13, 1-10-17)

**NET FLOOR AREA.** The total floor area of a building, measured from the finished interior wall surface of the outer building walls, excluding major vertical penetrations of the floor (elevator and other mechanical shafts, stair wells), mechanical equipment, parking areas, common restrooms, common lobbies, and common hallways. Storage area is included in the net square feet calculation unless it is demonstrated that it cannot be converted to habitable space. [Amd. Ord. 01-09 1/20/09]

**NEW DEVELOPMENT.** The construction of a building or buildings or other improvement(s) on vacant property or a new stand alone building on a developed property, excluding in-fill development. [Amd. Ord. 74-04 1/18/05]

**NEW MANUFACTURED HOME PARK OR NEW MANUFACTURED HOME SUBDIVISION.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lot on which the manufactured home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed on or after May 8, 1978.

**NON-COMMERCIAL SIGN.** A temporary sign erected for purposes other than advertising a commercial business. [Amd. Ord. 78-06 1/2/07]

**NONCONFORMING USE.** Any building or land lawfully occupied by a use at the effective date of an ordinance, or amendment thereto, which does not conform after the passage of the ordinance, or amendment, with the use requirements of the district in which it is situated. [Amd. 3/26/91]

**NONCONFORMING SIGN.** A sign which was erected legally but no longer complies with the current sign code regulations. [Amd. Ord. 14-04 6/22/04]

**NON-CONTRIBUTING STRUCTURE.** (Also referred to as a Non-historic Structure): A structure which does not add to the historic architectural qualities, historic associations, or archaeological values for which a district is significant because it was not present during the period of significance of the district, due to alterations, disturbances, additions, or other changes, it no longer possesses historic integrity reflecting its character at that time or is incapable of yielding important information about the period, or it does not independently meet the National Register of Historic Places criteria for evaluation. [Ord. 38-07 2/5/08]

**NONHABITABLE MAJOR STRUCTURE.** Swimming pools; parking garages; pipelines; piers; canals, lakes, ditches, drainage structures, and other water retention structures; water and sewage treatment plants; electrical power plants, transmission and distribution lines, transformer pads, vaults, and substations; roads, bridges, streets, and highways; and underground storage tanks.

**NONPERMANENT RESIDENCE.** Occupancy of a structure by a person or persons other than as a permanent resident.

**NON-RESIDENTIAL LICENSED SERVICE PROVIDER.** Shall mean a provider or facility licensed under Fla. Stat. Sections 397.311(25)(a)1., "Addictions Receiving Facility", 397.311(25)(a)4., "Detoxification; 397.311(25)(a) 5., "Intensive Inpatient Treatment"; and 397.311(25)(a)7., "Medication Assisted Treatment for Opiate Addiction", as amended from time to time. [Amd. Ord. 10-11, 4/5/11; Amd. Ord. 4-04, 2/3/04; Amd. Ord. 35-00, 1/2/01] (Ord. No. 02-17, § 2, 1-24-17)

**NURSING HOME.** Any institution, building, residence, private home, or other place, whether operated for profit or not, including a place operated by a county or municipality, which undertakes through its ownership or management to provide for a period exceeding 24-hour nursing care, personal care, or custodial care for three or more persons not related to the owner or manager by blood or marriage, who by reason of illness, physical infirmity, or advanced age require such services, but does not include any place providing care and treatment primarily for the acutely ill. A facility offering services for fewer than three persons is within the meaning of this definition if it holds itself out to the public to be an establishment which regularly provides such services. [Amd. Ord. 20-08 4/15/08]

**NUDITY.** Means the exposing to public view of the human male or female genitals, pubic area, cleavage of the human buttocks, or that portion of the human female breast encompassed within an area following below the horizontal line one would have to draw to intersect a point immediately above the top of the areola (the colored ring around the nipple). [Amd. 11/13/90]

**OFFICE OF THE RECORDER.** The recorder of deeds of the county.

**OFFICIAL ZONING MAP.** The official map upon which the boundaries of each zoning district are designated and established as approved and adopted by the Commission, and made a part of the official public records of the City. The map shall be the final authority as to the present zoning status of buildings, land, water areas, and other structures within the city.

**OFF-PREMISE SIGN.** A sign advertising a business which is not located on the property where the sign is located. [Amd. Ord. 14-04 6/22/04]

**ONE-HUNDRED-YEAR STORM OR 100-YEAR STORM.** A shore incident hurricane or any other storm with accompanying wind, wave, and storm surge intensity having a one percent chance of being equaled or exceeded in any given year, during any 100-year interval.

**OPEN SPACE.** All areas of natural plant communities or areas replanted with vegetation after construction, such as: revegetated natural areas; tree, shrub, hedge or ground cover planting areas; and lawns. Water bodies cannot be used to calculate open space areas.

**OPEN SPACE, CIVIC.** An outdoor space that is maintained as an urban amenity and is accessible to the general public. Civic open spaces may be constructed and maintained by government agencies but are usually constructed by landowners when they build on the property (see Section 4.4.13(G)). Civic open spaces typically take the form of a green, a plaza, a playground, or a square. [Amd. Ord. 03-15 02/24/2015]

**OPEN SPACE, COMMON.** Any open spaces under common ownership and control.

**ORDINARY MAINTENANCE OR REPAIR.** Any work for which a building permit is not required by law, where the purpose and effect of such work is to correct any physical deterioration or damage of an improvement or any part thereof, by restoring it, as nearly as practical, to its appearance prior to the occurrence of such deterioration or damage.

**OXFORD HOUSE.** A self-governed community residence for people in recovery that is part of Oxford House, Inc. An Oxford House places no time limit on residency, operates as a democratic system and utilizes self-support to pay all the household expenses. Sanctioned by Congress, each Oxford House is operated in accord with the Oxford House Manual© and is subject to annual inspections which serve as the functional equivalent of the certification or licensing of community residences required by these Land Development Regulations. (Ord. No. 25-17, § 36, 7-18-17)

**OWNER.** When used in relation to a motor vehicle the term shall mean the individual or firm to which the vehicle is registered, and whose name appears on the motor vehicle certificate of title. This shall include, if under lease, rental agreement, or on loan under any type of arrangement, gratuitous, or otherwise, the individual or firm having possession or control of the vehicle. When used in relation to private property in a residential district, the term shall mean the recorded owner of the property appearing in the records of Palm Beach County, Florida. This shall include if under lease, rental, agreement for deed, or similar land contract, the person or persons having possession and control of the premises.

**PAINTED WALL SIGN.** A sign applied with paint or similar substance on the face of a wall. [Amd. Ord. 14-04 6/22/04]

**PANEL ANTENNA.** An array of antennas designed to concentrate a radio signal in a particular area. [Amd. Ord. 21-97 6/3/97]

**PARAPET.** A wall extension above the roof line designed to screen flat roofs and rooftop appurtenances. (Ord. No. 02-21, § 5, 3-2-21)

**PARKING AREA.** The total area devoted to the parking and maneuvering of vehicles.

**PARKING GARAGE, AUTOMATED.** A parking facility using mechanical equipment to autonomously hoist individual vehicles from receiving areas to multi-level storage areas within the same structure. (Ord. No. 31-18, § 4, 1-15-19)

**PARKING LOT.** An open area which is used for the parking of automobiles.

**PARKING SPACE.** A surface area, enclosed or unenclosed, which is sufficient in size to park one automobile, together with a driveway connecting the parking space with a street or alley and permitting ingress and egress of an automobile.

**PARTIAL NUDITY.** Means the exposing to public view of the human male or female cleavage of the human buttocks or that portion of the human female breast encompassed with an area falling below the horizontal line one would have to draw to intersect a point immediately above the top of the areola (the colored ring around the nipple) with less than a full opaque covering; or the depiction of covered human male genitals in a discernibly turgid state. [Amd. 11/13/90]

**PERIMETER.** The whole outer boundary of any structure designated as a sign.

**PERMANENT RESIDENCE.** Occupancy of a structure by a person, or persons, who declares the structure is his/her permanent residence of record; or who is temporarily having such occupancy while gainfully employed or seeking employment within the community, attending school within the community, or who habitually occupies the same dwelling periodically and recurrently. For zoning and land use purposes, the term also applies to habitation of a structure by its fee simple owner for any period of time.

**PERSONAL SERVICE PROVIDERS.** (Beauty Salons, Spas, etc.) Commercial establishments providing personal services varying in range and scope including but not limited to hairstyling, manicuring, pedicures, facials, massages, etc. [Amd. Ord. 48-06 9/19/06]

**PET HOTEL.** A place of business that provides both daily and overnight boarding accommodations for domestic animals. (Ord. No. 17-21, § 15, 10-19-21)

**PET SERVICES.** A place of business that provides temporary care and services for domestic animals such as grooming, bathing, training, and daytime boarding. (Ord. No. 17-21, § 15, 10-19-21)

**PHARMACY.** Shall mean a retail establishment primarily offering goods for retail sale and on-site dispensing of prescription drugs, nonprescription drugs or both. A retail pharmacy may also offer accessory services such as photo processing, eyeglass care, etc. No more than 15% of the total number of prescriptions sold within a thirty (30) day period can be derived from the sale of Schedule II controlled substances as listed in Florida Statute 893.03, as determined by an audit/information obtained from an entity that has jurisdiction to request and review such information. All pharmacies shall be staffed by a state licensed pharmacist. [Amd. Ord. 27-10 9/21/10]; [Amd. Ord. 50-09 10/20/09]

**PICKUP TRUCK.** Any motor vehicle designed primarily for the transportation of property within a permanently attached open cargo box and having a carrying capacity of ¾ ton or less.

**PLANT SPECIES, CONTROLLED.** Those plant species which tend to become nuisances because of their undesirable growth habits, but which, if property cultivated, may be useful or functional elements of landscape design.

**PLANT SPECIES, PROHIBITED.** Those plant species which are demonstrably detrimental to native plants, native wildlife, ecosystems, or human health, safety, and welfare.

**PLAT.** A map depicting the division or subdivision of land into lots, blocks, parcels, tracts, or other portions thereof.

**POCKET PARK.** A park that is less than one-half acre in size, and which may include benches, limited playground equipment, and similar amenities intended primarily for use by residents of the surrounding neighborhood. [Amd. Ord. 8-00 4/4/00]

**POLE SIGN.** A freestanding sign that has the sign area at the top of a pole. [Amd. Ord. 14-04 6/22/04]

**PORCH.** A covered but unenclosed projection from the main wall of a building that may or may not use columns or other ground supports for structural purposes. [Amd. Ord. 7-05 2/15/05]

**PORTABLE SIGN.** Any sign designed to be easily moved, such as a sidewalk or sandwich boards sign, and is not permanently affixed to the ground or to a building. [Amd. Ord. 14-04 6/22/04]

**POTABLE WATER.** Water of quality satisfactory for drinking, culinary, and domestic purposes.

**PREVENTION EDUCATION SERVICE PROVIDER.** Shall mean a service provider or facility licensed under Chapter 397, Fla. Stat. for the sole purpose of providing Prevention Education Services as defined in 397.311(18)(g), Fla. Stat. aimed at precluding, forestalling, or impeding the development of substance abuse problems in order to promote responsible personal and social growth of individuals and families toward full human potential. [Amd. Ord. 48-05 7/19/05]

**PRINCIPAL BUILDING.** A building which houses the main use or activity occurring on a lot or parcel of ground.

**PRIVATE STREET.** Any street which has not been dedicated for public use and not accepted for ownership and maintenance by the City.

**PROFESSIONAL OFFICES.** A business that offers services to the public by those vocations in which professed attainments in special knowledge are practiced, as distinguished from mere skills, and shall be limited to those professions so classified by the Laws of Florida, and which are conducted as professions and not as a trade or other business, such as attorneys, engineers, architects, and other similarly licensed professionals. PROFESSIONAL OFFICES do not include offices for the treatment of animals on the premises. This definition does not include a Medical Office. [Amd. Ord. 09-10 7/20/10]; [Amd. Ord. 50-09 10/20/09]

**PROGRAMMED PUBLIC PARKING FACILITY.** A parking lot or parking structure that has been identified in the City's Comprehensive Plan and/or as a potential site in the City's Parking Master Plan, which will be constructed or owned by a governmental entity or a partnership that includes a governmental entity, which provides parking for the general public. [Amd. Ord. 09-10 7/20/10]; [Amd. Ord. 79-05 1/3/06]

**PROJECTING SIGN.** A sign which is attached at a right angle to the outside wall of the building. [Amd. Ord. 14-04 6/22/04]

**PROPER DESIGN CONCEPTS.** Architectural planning and the analysis of the whole structure in terms of form and function as it relates to aesthetics and composition, color, materials, and surface decoration. It includes scale in relationship to scale of adjacent buildings and landscape. It applies to inner character of the individual project. It applies in the same manner to alterations and advertising on the project (building). No one will be permitted the excuse that the area contains other unsightly buildings.

**PROPORTION.** The relation of one portion to another, or to the whole, or of one thing to another, as respects to magnitude, quantity or degree, and ratio.

**PROTECTED TREE.** Any tree, other than nuisance trees, as defined in this section, with a minimum trunk diameter of four (4) inches, measured at six inches above grade. [Amd. Ord. 37-06 9/19/06]

**PROTECTIVE BARRIER.** Fencing used to separate protected trees from other activities on a construction site. The barrier must extend to the drip line of the tree and these areas shall remain free of vehicular traffic and stockpiling of materials. [Amd. Ord. 37-06 9/19/06]

**PUBLIC ART.** Means artwork or works of art including, but not limited to sculptures, integrated architectural or landscape architectural work, community art, digital media installations, or murals, that are: located in the public right-of-way; on City owned property; located on structures that are located in the public right-of-way or on City owned property; or located on private property and funded by the City. [Amd. Ord. 77-04 2/1/05] (Ord. No. 22-20, § 6, 8-26-20)

**PUBLIC PARKING FACILITY.** A parking lot or parking structure/garage that is owned by a governmental agency or a partnership that includes a governmental entity, which provides parking for the general public. [Amd. Ord. 79-05 1/3/06]

**PUBLIC PLAZA.** A portion of land which is available to the public for respite, civic or assembly uses. Seating or dining area for a tenant shall not be counted as part of the public plaza. Public plazas must have a minimum size of 150 square feet in area and a minimum length or width of ten feet (10') may and may include impervious surfaces such as concrete, pavers, brick, or other decorative surface treatment. [Amd. Ord. 21-04 5/4/04]

**PUBLIC STREET.** Any street which is dedicated to the public use and accepted for ownership and maintenance by the city.

**PUBLIC WATER SUPPLY SYSTEM.** Any system for the provision to the public of piped water for human consumption if the system has at least 15 service connections or regularly serves at least 25 individuals daily at least 60 days out of the year.

**REAL ESTATE SIGN.** Any temporary sign advertising the real estate where the sign is placed, stating as being for sale, rent or lease. [Amd. Ord. 14-04 6/22/04]

**REAL PROPERTY.** The portion of land or buildings contained in a legal description setting forth the boundaries of the property and legally acknowledged under the laws of the state and county.

**RECREATIONAL VEHICLE.** An automobile, bus, camp-car, pick-up camper, trailer, or other vehicle with or without motive power, designed and constructed to travel on public thoroughfares without special permit in accordance with the provisions of the Vehicle Code of the State of Florida.

**REMOVAL OF A TREE OR TREE REMOVAL.** Shall mean either removing a tree from the ground in which it grew or effectively removing a tree through damaging the trunk, topping, damaging, or removing major roots, limbs, or removing sufficient canopy which results in the decline or death of the tree, or becomes a hazard to public safety and actually must be removed. [Amd. Ord. 37-06 9/19/06]

**RENTAL UNIT.** A dwelling or dwelling unit occupied by a tenant.

**REPLAT.** A change in a map of an approved or recorded subdivision plat.

**RESIDENT, ABUSED SPOUSE.** Shall mean an abused spouse and the minor or dependent children of an abused spouse.

**RESIDENTIAL DISTRICTS.** All R-1AAA, R-1AAA-B, R-1AA, R-1AA-B, R-1-A, R-1A-B, RL, RM, PRD, A, RR, and MH zoning districts. [Amd. Ord. 24-02 7/16/02]

**RESIDENTIAL STREET.** A street conveying traffic from private residence to collector streets. Also known as a local street.

**RESIDENTIAL-TYPE INNS.** A facility offering transient lodging accommodations on a daily, weekly, or monthly rate to the general public (open to the public at large). It may consist of one building which contains the principal

and accessory uses, or groups of buildings. Suites may or may not include kitchens or kitchenettes. Accommodations may be comprised entirely of suites, or may include a combination of single rooms and suites. The facility may also contain accessory uses as otherwise permitted in the applicable zoning district. [Amd. Ord. 13-00 6/20/00]; [Amd. Ord. 9-98 2/17/98]

**RESORT.** A hotel or motel that serves as a destination point for visitors. A resort generally provides recreational facilities for persons on vacation, such as golf, tennis, health spas, etc. A resort shall be self-contained and provide personal services customarily furnished at hotels, including the serving of meals. [Amd. Ord. 13-00 6/20/00]

**RESORT DWELLING UNIT.** A dwelling unit as defined herein modified as follows: a unit for which the exclusive right of use has been segmented over time so that the owners, lessees, or holders of such exclusive use rights have a periodically recurring right of use (to either that unit or another unit in the same development) according to a predetermined fixed schedule, and only if the schedule would permit in any one year a change or turnover of occupancy five or more times.

**RESTAURANT (BONA FIDE).** [Amd. Ord. 42-05 6/21/05]

- (a) A bona fide restaurant 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;
    - a. Full course meals shall include a salad or vegetable, entrée and dessert.
  2. A bona fide restaurant must have full kitchen facilities, which are located in a completely enclosed room, under roof of the main structure, or in an interior court and 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 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 must have the appropriate license issued by the state as well as all municipal or county permits required by law, and must meet all local zoning requirements.

**RIGHT-OF-WAY.** A strip of land dedicated or deeded to the perpetual use of the public.

**RIGHT-OF-WAY LINE.** The outside boundary of a right-of-way whether such right-of-way be established by usage, dedication, or by official right-of-way map.

**ROADWAY BANNER.** A temporary sign that is constructed with a standard vinyl awning material that drapes above the roadway, attached to City installed poles on both sides of the road. [Amd. Ord. 14-04 6/22/04]

**ROOF EAVE.** In pitched roofs, the eave is the lower edge of the roof which projects beyond the face of the wall. In flat roofs, the eave is the cantilevered portion of the roof which projects beyond the face of the wall. (Ord. No. 28-15, § 10, 12-8-15)

**ROOF SIGN.** A sign or any portion of a sign which is located on the roof or top of the building or which projects above the roof eave of a gable or hip roof or above the top of a parapet, tower, or any other architectural feature. (Ord. No. 22-18, § 4, 11-27-18)

**ROOFTOP APPURTENANCES.** Structures and equipment, or other features necessary to operate and maintain the building, not intended for human occupancy, and required to be placed on or extended above the roof such as chimneys, elevator equipment, air-conditioning units, spiral stairs, tanks, ventilating fans, skylights, flagpoles, photovoltaic cells or solar panels, wireless masts, and television antennae. (Ord. No. 02-21, § 5, 3-2-21)

**ROOFTOP GARDENS.** A garden located on the roof of a building that is used for the commercial and/or private production of fruits, vegetables, edible mushrooms, herbs, flowers, and/or ornamental plants. (Ord. No. 07-17, § 17, 5-16-17)

**ROOFTOP TERRACE.** An open-air space on a roof that accommodates access and use by the building occupants. (Ord. No. 02-21, § 5, 3-2-21)

**ROOT BARRIER.** A barrier placed between a tree's roots and adjacent sidewalks, utilities, pavement, or any other improvement, which is installed with the express purpose of providing protection from the invasion of the tree's roots into that improvement. [Amd. Ord. 37-06 9/19/06]

**SAND DUNES.** Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

**SCALE.** The character of any architectural work is determined both in its internal space and in its external volume by the fundamental factor of scale, the relation between the dimensions of man.

**SCHOOL GARDENS.** Garden plots that are owned by or used exclusively by a public or private school and are used exclusively for educational or on site consumption purposes to teach students about the production of produce fruits, vegetables, edible mushrooms, herbs, flowers, and/or ornamental plants. (Ord. No. 07-17, § 17, 5-16-17)

**SCREENED ENCLOSURE.** A framed structure completely covered with open mesh screening only. Such enclosure shall not have any type of opaque or transparent roof or sides such as glass or similar materials.

**SCREENING (CONCEALING).** A structure of metal, masonry, wood, landscape planting, or other suitable opaque material, for the purpose of totally concealing from view those areas so screened.

**SECONDHAND MATERIAL.** Objects and clothing of the modern period that have been previously used or worn. [Amd. Ord. 44-98 10/20/98]

**SEASONAL HIGH-WATER LINE.** The line formed by the intersection of the rising shore and the elevation of 150% of the local mean tide range above mean high water.

**SELF-SERVICE STORAGE FACILITY (SSSF).** An individual building or group of buildings arranged in such a fashion to create a compound like structure, which contain varying sizes of individual self-contained storage units or bays, rented or leased for the express purpose of the dead storage of a tenant's goods or wares. [Amd. Ord. 52-97 1/6/98]

**SELF-SUPPORT/LATTICE TOWER.** A telecommunication tower that is constructed without guy wires and ground anchors. [Amd. Ord. 21-97 6/3/97]

**SENIOR HOUSING.** A facility which is owned or operated by a public or nonprofit agency, offering affordable housing for a period exceeding 24 hours, accommodating between 6 and 30 residents 60 years of age or older unrelated to the owner or administrator by blood or marriage, excluding the on-site property manager. The facility shall not offer food, medical, or personal services to the residents. [Amd. Ord. 39-05 6/21/05]

**SETBACK.** The horizontal distance between a building and the boundary lines of the lot, or the boundary lines of a building site joined by a Unity of Title, where no building, structure, or portion thereof shall be allowed, except as provided in Section 4.3.4(H)(4). Setbacks shall be measured from the right-of-way line for public streets, and from the access easement line for private streets.

**SHADE TREE.** A tree which can develop a large canopy and provide shade and reduce the effects of heat and light, which can help moderate the temperature through the cooling effects of evapotranspiration. [Amd. Ord. 37-06 9/19/06]

**SHOPPING CENTER.** A group of commercial predominately retail or service establishments planned, developed, managed, and operated as a unit and which utilize a common parking area.

**SHRUB.** A self supporting woody perennial plant of low to medium height characterized by multiple stems and branches continuous from the base.

**SIDEWALK OR SANDWICH SIGN.** A movable sign not secured or attached to the ground.

**SIGN.** Any device, structure or fixture using graphics, symbols or written copy designed to advertise, or identify an establishment, product, goods or services. [Amd. Ord. 63-04 11/16/04] [Amd. Ord. 14-04 6/22/04]

**SIGN AREA.** The sign area shall be the area of a rectangle enclosing all lettering, illustrations, ornamentation and logos which form an integral part of the display, or differentiates the display area from the background on which it is placed. [Amd. Ord. 78-06 1/2/07]; [Amd. Ord. 14-04 6/22/04]

**SIMULATED GAMBLING DEVICE.** Means any mechanical or electrical device, computer, terminal, video or other equipment that may or may not be capable of downloading games from a central server system, machine, computer or other equipment upon connection with or the insertion of, swiping, passing in range, or any other technical means of physically or electromagnetically connecting to a coin, bill, ticket, token, card, or similar object, including entering a password obtained directly or indirectly through payment of consideration or obtained as a bonus or supplement to another transaction involving the payment of consideration, which makes the device available to play (by skill, chance, or both) or operate a computer or video simulation of any game such as slot machines, bingo, poker, keno, craps, or any other type of game ordinarily played in a casino, including a game involving the display of the results of a raffle, sweepstakes, drawing, contest, lottery, or other promotion, and which may deliver or entitle the person or persons playing or operating the device to a payoff of cash, money, or other credit, billets, tickets, tokens, or electronic credits to be exchanged for cash or merchandise, or any other thing of value, whether made automatically from the machine or manually. [Amd. Ord. 48-11 1/3/12]

**SINGLE PURPOSE SPECIALTY RETAIL SALES.** A retail establishment specializing in a specific market such as a bath shop, book store, florist, gift shop, hobby shop, kitchen shop, dress shop and boutique.

**SITE AND DEVELOPMENT PLAN.** A graphic and informative representation of a specific design solution for an entire project or development phase thereof.

**SITE SPECIFIC PLANTING.** The selection of plant material that is particularly well suited to withstand the physical growing conditions which are normal for that location

**SLOPED PARAPET.** Means an angled false front or wall extension above the roof line. [Amd. Ord. 2-06 1/17/06]

**SLOT MACHINE.** Means a coin-operated amusement device allowable pursuant to law that pays off according to the matching of symbols on wheels spun by a handle or by a push button. [Amd. Ord. 58-04 10/19/04]

**SNIPE SIGN.** Any sign located in the public right-of-way or placed in the ground for commercial purposes, excluding garage sales, yard sales, homeowners and civic meeting signs. [Amd. Ord. 78-06 1/2/07]; [Amd. Ord. 14-04 6/22/04]

**SPECIAL EVENT. SIGN** A sign which announces a special event or function which is of general benefit to the community at large.

**SPECIALTY FOOD STORE.** A retail store specializing in a specific type or category of foods such as an appetizer store, bakery delicatessen, fish, gourmet and similar foods.

**SPECIFIED ANATOMICAL AREAS.** Specified anatomical areas shall include less than completely and opaquely covered human genitals and the pubic region; the opening between the human buttocks, i.e., the anal cleft; that portion of the human female breast encompassed within an area falling below the horizontal line one would have to draw to intersect a point immediately above the top of the areola; this definition shall include the entire lower portion of the female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided that the areola is not exposed; or human male genitals in a discernibly turgid state, even if completely and opaquely covered. [Amd. Ord. 37-07 9/18/07]

**SPECIFIED SEXUAL ACTIVITIES.** Specified sexual activities shall include human genitals in a state of sexual stimulation, arousal or tumescence; or acts of human anilingus, bestiality, buggery, cunnilingus, coprophagy, coprophilia, fellation, flagellation, masochism, masturbation, necrophilia, pederasty, pedophilia, sadism, sadomasochism, sexual intercourse, or sodomy; or fondling or other erotic touching of human genitals, pubic region, buttock, anus, or female breast; or excretory functions as part of or in connection with any of the activities set forth above [Amd. Ord. 37-07 9/18/07].

**SPECIMEN TREE.** All approved trees with a caliper of 24 inches or more. [Amd. Ord. 37-06 9/19/06]

**STAND ALONE BAR.** Any licensed premises, including but not limited to, cocktail lounges, bars, nightclubs, dance clubs, piano bars and cigar bars, devoted during any time of operation predominantly or totally to serving alcoholic beverages, intoxicating beverages, or intoxicating liquors, or any combination thereof, for consumption on the licensed premises, in which the serving of food, if any, is merely incidental to the consumption of any such beverage; and the licensed premises is not located within, and does not share any common entryway or common indoor area with, any other enclosed indoor workplace, including any business for which the sale of food or any other product or service is more than an incidental source of gross revenue. A place of business constitutes a stand alone bar in which the service of food is merely incidental in accordance with this definition if the licensed premises derives no more than ten percent (10%) of its gross revenue from the sale of food consumed on the licensed premises. [Amd. Ord. 42-03 11/18/03]

**START OF CONSTRUCTION.** For other than new construction or substantial improvement under the Coastal Barrier Resources Act (P.L. 97-348), includes substantial improvement, and means the date for building permit was issued, provided the actual start of construction is within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs on footings, installation of piles, construction of columns, or any work beyond the slope of excavation or the placement of a manufactured home on a foundation — does not include land preparation, such as clearing, grading, filling — nor does it include installation of streets or walkways, the excavation for a basement, footing piers on foundation or the erection of temporary forms, the installation of the property's accessory building, such as garages or sheds not occupied as dwelling units or not part of the main structure.

**STATE MINIMUM BUILDING CODE.** The building code adopted by a municipality or county pursuant to the requirements of the Florida Statute, Chapter 553, Section VII.

**STEALTH FACILITY.** Any telecommunication facility which is designed to blend into the surrounding environment. Examples of stealth facilities include architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and telecommunication towers designed to look like light poles, power poles, or trees. [Amd. Ord. 21-97 6/3/97]

**STORMWATER MANAGEMENT ASSESSMENTS.** Non-ad valorem assessments imposed by the City pursuant to Chapter 56 and Section 403.0893, Florida Statutes, as amended and supplemented, on all developed property which is not non-assessed property, and on all unimproved land which is not non-assessed property, in the Benefited Area in relation to each such property's estimated contribution of stormwater runoff to the System and the benefit derived from the use of the facilities of the System, and the future improvements to be funded from Stormwater Management Assessments. Such Stormwater Management Assessment, shall include the pro rata cost of the operation and maintenance of the System, based on the same proportion of benefit assessed against each parcel within the Benefited Area. [Amd. 10/23/90]

**STORY.** The portion of a building included between the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it. Height as applied to a story implies the vertical distance from top to top of two successive finished floor surfaces.

**STREET.** A strip of land, owned privately or publicly, which affords legal access to abutting land and is designated for vehicular traffic. "Street" includes road, thoroughfare, parkway, avenue, boulevard, expressway, lane, throughway, place, and square or however otherwise designated. Streets are further classified according to the function they perform. [Amd. Ord. 21-04 5/4/04]

**STREETWALL.** A short freestanding wall or hedge located in line with building facades or front setbacks. [Amd. Ord. 03-15 02/24/2015]

**STREET CENTERLINE.** The line midway between the right-of-way lines.

**STREET PRIVATE.** Any street which has not been dedicated for public use and not accepted for ownership or maintenance by the City.

**STREET PUBLIC.** Any street which is dedicated to the public use and accepted for ownership or maintenance by the City.

**STREET TREES.** Trees or palms on land lying within public rights-of-way or easement(s). Within sub-divisions, street trees may be planted on private property abutting the street, if utilities or easements restrict placement in the right-of-way. A street tree planting plan is required with all residential subdivision plats. [Amd. Ord. 37-06 9/19/06]

**STRUCTURE.** A walled and roofed building that is principally above ground, as well as a manufactured home or; anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground.

**STUDIO.** A type of dwelling unit, located within a multiple family dwelling and which consists of combined sleeping and living facilities for occupancy by permanent residents.

**SUBDIVISION.** Any land, vacant or improved, which is divided or proposed to be divided into two or more lots, parcels, sites, units, or plots for the purpose of offer, sale, or development either on the installment plan or upon any and all other plans, terms, and conditions. The act "Subdivision" includes the division or development of residential and nonresidential zoned land, as well as the division of units, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat, or other recorded instrument. For purposes of this chapter,

"Subdivision" includes condominiums, cooperatives, and rental units. "Subdivision" includes resubdividing as replats. [Amd. 3/26/91]

**SUBDIVISION ENTRANCE SIGN.** An entrance sign identifying the name of the subdivision or residential development. [Amd. Ord. 14-04 6/22/04]

**SUBSTANTIAL IMPROVEMENT.** (1) Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds a cumulative total of 50% of the market value of the structure either: (a) Before the repair or improvement is started; or (b) If the structure has been damaged and is being restored, before the damage occurred. (2) For the purpose of this definition, "SUBSTANTIAL IMPROVEMENT" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specification which are solely necessary to assure safe living conditions; or any alteration of a structure listed on the National Register of Historic Places or the State Inventory of Historic Places.

**SWIMMING POOLS.** Any confined body of water, the top of which is no higher than grade level, exceeding 150 square feet in surface area, and two feet in depth, which is designed, used, or intended to be used for swimming or bathing purposes.

**SWINGING SIGN.** A flexible swinging sign hanging from the outside wall or walls of any building or any pole structure which is not rigidly affixed thereto.

**SYSTEM.** The City's unified Stormwater Management System, as more particularly described in Section 56.03(B). [Amd. 10/23/90 ]

**TELECOMMUNICATION TOWER.** A guyed, monopole, or self-support / lattice tower, constructed as a free-standing structure, containing one or more antennas used in the provision of personal wireless services. [Amd. Ord. 21-97 6/3/97]

**TEMPORARY SIGN.** Any sign erected for a limited time period not to exceed six (6) months. [Amd. Ord. 78-06 1/2/07]; [Amd. Ord. 14-04 6/22/04]

**TENANT.** A person who pays rent to occupy or use, but who acquires no interest, in land, a building, dwelling, or dwelling unit.

**THRESHOLD BUILDING.** (a) Is greater than three stories or 50 feet in height; (b) Has an assembly occupancy classification that exceeds 5,000 square feet in area and an occupant content of greater than 500 persons.

**TIME SHARE UNIT.** A type of ownership and use of a dwelling unit for which the exclusive right of use has been segmented over time so that the owners, lessees or holders of such exclusive use rights have a periodically recurring right of use (to either that unit or another unit in the same development) according to a predetermined fixed schedule, and only if the schedule would permit in any one year a change or turnover of occupancy five (5) or more times.

**TOT LOT - PLAY LOT.** A small area designed for the play of preschool-age children. It serves as a substitute for a backyard or family lot. Play lots are seldom provided by a City except in apartment house districts or in high density, underprivileged neighbors where other play opportunities are not available. Its size ranges from 1,500 to 8,000 square feet depending upon space available and number of children to be served. Features include swings, slides, sandboxes, benches, etc., and should be enclosed by a fence or hedge for safety. Children should not have to cross a major street to reach a play lot.

**TOWING SERVICES AND ATTENDANT STORAGE FACILITIES.** A business whose primary service is the towing and storage of motor vehicles, and does not include the towing of motor vehicles incidental to an automobile repair facility. Motor vehicles meeting the definition of inoperable per 90.01 must be turned over to a licensed junkyard within 72 hours unless housed within an enclosed building.

**TOWNHOUSE.** A building or structure designed for or occupied by no more than one family or household, and attached to at least two or more similar buildings or structures by not more than two party walls extending from the foundation to the roof, and providing two direct means of access from the outside. Each dwelling unit shall contain cooking, sleeping, and sanitary facilities for use by each family or household of the townhouse. Each individual townhouse unit shall have fee simple ownership of the lot occupied by that unit. In addition, each individual townhouse lot shall be platted. or; a form of ownership, wherein interest in a dwelling unit is conveyed fee simple and owners share ownership and maintenance responsibility for common areas (grounds, exterior walls, recreational facilities, etc.).

**TRANSIENT RESIDENTIAL USE** Shall mean the entire dwelling unit or any part thereof, which is located in Single Family, Rural Residential, or Planned Residential Development Zoning Districts and is operated or used in such a way that any part of the dwelling unit turns over occupancy more often than three times in any one year and the entire dwelling unit or any part thereof, which is located in Low Density Residential (RL) or Medium Density Residential (RM) Zoning Districts and is operated or used in such a way that any part thereof turns over occupancy more often than six times in any one year. A community residence is not a Transient Residential Use. [Amd. Ord. 40-12 11/6/12]; [Amd. Ord. 03-12 2/21/12]; [Amd. Ord. 29-09 7/7/09] (Ord. No. 25-17, § 36, 7-18-17)

**TRANSITIONAL COMMUNITY RESIDENCE** A transitional community residence is a temporary living arrangement for four to ten unrelated people with disabilities with a limit on length of tenancy that is measured in weeks or months, not years. (Ord. No. 25-17, § 36, 7-18-17)

**TREE.** For the purpose of this section, the term tree will also apply to palms, unless a distinction is made. [Amd. Ord. 37-06 9/19/06]

**TREE ABUSE.** Shall mean any act which will cause a tree to die within a period of two years, e.g., damage inflicted on the root system by heavy machinery; changing the natural grade around the root system or the trunk; damage inflicted on the tree permitting infection or pest infestation or application of any chemical; or paving with concrete, asphalt or other impervious materials to within six feet of the outside diameter of the tree, without prior approval from the City. [Amd. Ord. 37-06 9/19/06]

**TREE TRUST FUND.** An account established by the City's Finance Department into which in-lieu funds for owners and/or developers who are unable or unwilling to comply with the tree or palm planting/replacement requirements of the City's Land Development Regulations may deposit the in-lieu funds. These funds shall be used to off-set the City's costs for future trees and palms and tree trimming for parks and streetscapes. [Amd. Ord. 35-08 9/16/08]; [Amd. Ord. 37-06 9/19/06]

**TRIPARTITE.** Consisting of three parts; in building facades, a base, a middle, a top. (Ord. No. 28-15, § 10, 12-8-15)

**TURF.** (Sod or lawn grass) continuous plant coverage consisting of perennial grass species suited to growth in Delray Beach.

**UNDUE ECONOMIC HARDSHIP.** An exceptional financial burden that might otherwise amount to the taking of property without just compensation, or failure to achieve a reasonable economic return.

**UNDER-CANOPY SIGN.** A sign attached or suspended under the canopy or roof of a walkway. [Amd. Ord. 14-04 6/22/04]

Delray Beach, Florida, Land Development Regulations  
Appendix A DEFINITIONS

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**UNITY OF TITLE.** A document recorded in the Office of the Clerk of the Circuit Court of Palm Beach County, stipulating that a lot, lots, or parcels of land shall be held under single ownership, shall not be eligible for further subdivision, and shall not be transferred, conveyed, sold, or divided, in any unit other than in its entirety.

**UNLAWFUL SIGN.** A sign which does not meet the requirements of this code and which has not received legal nonconforming status. [Amd. Ord. 14-04 6/22/04]

**UNSAFE BUILDING.** Any building or structure in any condition, such that the life, health, property, or safety of the general public, its occupants, or others are endangered.

**URBAN AGRICULTURE.** The science or practice of cultivation of the soil for the growing of crops to provide food or other plant-based products within the city limits of the City of Delray Beach. (Ord. No. 07-17, § 17, 5-16-17)

**URBAN FARM.** A small-scale commercial operation which includes the production and sale of fruits, vegetables, edible mushrooms, herbs, flowers, and/or ornamental plants which may be conducted indoor or outdoor. (Ord. No. 07-17, § 17, 5-16-17)

**USE, PRINCIPAL.** A primary purpose for which land or building is used.

**USED CAR LOT.** A lot or group of contiguous lots used for the storage, display, and sales of used automobiles, and where no repair work is done, except the necessary reconditioning of the cars to be displayed and sold on the premises.

**USED FOR.** Includes "Arranged For," "Designed For," "Maintained For", or "Occupied For."

**USED OR OCCUPIED.** Include the words intended, designed or arranged to be used or occupied.

**VALUATION OR VALUE.** The assessed value of a building or structure as determined by the County Tax Assessor.

**VEGETATION, NATIVE.** Any plant species with a geographic distribution indigenous to all or part of the State of Florida. Plant species which have been introduced by man are not considered to be native vegetation.

**VEHICULAR ENCROACHMENT.** The protrusion of a vehicle or mobile equipment outside of a parking space, display area, or accessway into a landscaped area.

**VEHICULAR USE AREA.** Shall mean both: (1) An area designed or used for off-street parking for any and all types of vehicles except areas used for parking and other vehicular uses under, on or within buildings; or (2) An area used for loading, circulation, access, storage of materials or heavy equipment, and all land upon which vehicles traverse the property as a function of the primary use, including but not limited to activities of a drive-in nature such as, but not limited to gasoline stations, grocery and dairy stores, banks and restaurants and the display of motor vehicles.

**VETERINARY CLINIC.** A clinic or hospital facility for treatment of animals and pets operated by a licensed veterinarian.

**VINES.** Plants which normally require support to reach mature form.

**WALL SIGN.** A sign painted or attached parallel to the outside of a building. [Amd. Ord. 14-04 6/22/04]

**WAREHOUSE.** A structure designed or used for the storage of goods or merchandise.

**WATERCOURSE.** Includes channel, creek, ditch, drain, canal, dry run, spring and stream.

**WAYFINDER SIGN.** An off-premise sign designed to guide or direct pedestrians or vehicular traffic. [Amd. Ord. 78-06 1/2/07]; [Amd. Ord. 14-04 6/22/04]

**WELL.** Any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed when the intended use of the excavation is for the location, acquisition, or development of groundwater.

**WHIP ANTENNA.** A cylindrical antenna that transmits signals in 360 degrees. [Amd. Ord. 21-97 6/3/97]

**WIND SIGN.** Signs consisting of banners, pennants, ribbons, spinners, streamers, balloons, or other objects or material fastened in such a manner as to move upon being subjected to pressure by wind. [Amd. Ord. 78-06 1/2/07]; [Amd. Ord. 14-04 6/22/04]

**XERISCAPE.** A landscape design that conserves water through the utilization of design principles which include the use of drought tolerant plant materials, soil amendments, efficient irrigation, reduced turf areas, mulches and appropriate maintenance.

**YARD.** An open space on the same lot with a building, unoccupied, and unobstructed from the ground upward, except by trees or shrubbery or as otherwise provided herein.

**YARD FRONT.** A yard across the full width of the lot, extending from the front line of the building to the front line of the lot, excluding steps.

**YARD REAR.** A yard extending across the rear of the lot measured between the lot lines and being the minimum horizontal distance between the building or any projections other than steps, unenclosed balconies, or enclosed porches. On corner lots the rear of the main building or any projections other than steps, unenclosed balconies, or enclosed porches. On corner lots the rear yard street upon which the lot has its least dimension. On both corner and interior lots the REAR YARD shall in all cases be at the opposite end of the lot from the front yard.

**YARD SIDE.** A yard between the building and the side line of the lot and extending from the front lot line to the rear lot line.

**ZERO LOT LINE DEVELOPMENT.** A residential development where the residential structures are placed contiguous to the side lot line.

**ZONING CERTIFICATE OF USE AND OCCUPANCY.** An inspection method by which the city documents the existing conditions of a non-residential property; identifies any non-conformities to be addressed by occupant/owner; establishes current land use and zoning; and grants approval to occupy a given location for a specified permitted commercial use prior to the issuance of a Business Tax Receipt. A Zoning Certificate of Use and Occupancy is required for any change in use to a permitted use, additional use, or change in business within an existing tenant space. (Ord. No. 24-18, § 6, 11-27-18)