



# DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

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## PUBLIC NOTICE

**RE: ORDINANCE NO. 50-20, AMENDMENT TO THE LAND DEVELOPMENT REGULATIONS TO MODIFY EXISTING LANGUAGE GOVERNING CONSTRUCTION PARKING AND PROVIDE NEW REGULATIONS FOR CONSTRUCTION STAGING**

Pursuant to the Land Development Regulations of the City of Delray Beach, you are hereby notified that the City Commission of the City of Delray Beach, Florida will conduct a **PUBLIC HEARING** on **TUESDAY, OCTOBER 20, 2020 at 4:00 PM** in the City Commission Chambers at City Hall, 100 NW 1<sup>st</sup> Avenue, Delray Beach, Florida 33444 regarding Ordinance No. 50-20, a City-initiated, citywide amendment to the Land Development Regulations to provide regulations for construction staging in public rights-of-way.

The City has received an increase in development proposals with underground parking facilities. The City Commission recently approved waivers for The Ray and PHG Delray to allow underground parking garages to be constructed within the required setbacks. During consideration of the PHG Delray waiver request at the December 10, 2019 meeting, City Commission directed staff to update the Land Development Regulations (LDRs) to allow underground parking to be constructed within the required setback areas, by right.

At first reading of Ordinance No. 10-20 on May 19, 2020, where the City Commission voted 5-0 to approve the amendment allowing underground parking in the setbacks, staff was directed to prepare additional language to accompany Ordinance No. 10-20 to regulate construction parking and staging in rights-of-way. The City Commission expressed concern that an absence of regulations governing construction staging would result in extended street closures associated with the construction of underground parking facilities. The proposed Ordinance No. 50-20 revises existing language governing construction parking and adds language to regulate construction staging for any development that uses the public rights-of-way for such purposes. The Planning and Zoning Board reviewed Ordinance No. 50-20 at its September 21, 2020 meeting and recommended approval 6-1. City Commission voted 5-0 to approve Ordinance No. 50-20 at first reading on September 22, 2020. Second reading and adoption is October 20, 2020. Additional information on this project can be found on the Development Services page at [www.delraybeachfl.gov](http://www.delraybeachfl.gov).

The request and draft ordinance may be inspected online at <https://www.delraybeachfl.gov/government/city-departments/city-clerk/public-notices>. For further information concerning the proposed ordinances please contact Rebekah Dasari, Senior Planner by phone at 561-243-7400, Ext. 7044, by e-mail at [dasarir@mydelraybeach.com](mailto:dasarir@mydelraybeach.com), or the Development Services Department at 100 NW 1<sup>st</sup> Avenue, FL 33444 between the hours of 8:00 A.M. and 5:00 P.M., Monday through Friday, excluding holidays.

All interested parties are invited to attend the public hearing and comment upon the proposed action or submit their comments in writing on or before the date of the hearing to the Development Services Department. Please be advised that if the action taken on this request is appealed, the appellant may need to ensure that a verbatim record includes the testimony and evidence upon which the appeal is to be based. The City does not provide nor prepare such record pursuant to F.S. 286.0105.

City of Delray Beach  
Development Services Department  
Date Posted: October 9, 2020

ORDINANCE NO. 50-20

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING CHAPTER 7, "BUILDING REGULATIONS," ARTICLE 7.1, "BUILDING REGULATIONS," OF THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES, BY AMENDING SECTION 7.1.8, "CONSTRUCTION PARKING," AMENDING THE TITLE TO INCLUDE CONSTRUCTION STAGING; BY AMENDING SECTION 7.1.8(A), "CONSTRUCTION PARKING," TO CLARIFY OFFSITE PARKING REQUIREMENTS DURING CONSTRUCTION; BY AMENDING SECTION 7.1.8(B), "ENFORCEMENT," BY DELETING THE EXISTING SECTION AND ENACTING A NEW SECTION 7.1.8(B), "CONSTRUCTION STAGING," TO PROVIDE PROCEDURES AND STANDARDS FOR STAGING MATERIALS AND EQUIPMENT AT CONSTRUCTION SITES; BY ENACTING A NEW SECTION 7.1.8(C), "MAINTENANCE OF TRAFFIC (MOT) PLAN," TO PROVIDE SUBMISSION REQUIREMENTS FOR CONSTRUCTION PARKING AND STAGING THAT INVOLVES A TRAVEL LANE, BIKE LANE, OR SIDEWALK CLOSURE; BY ENACTING A NEW SECTION 7.1.8(D), "ENFORCEMENT," TO ESTABLISH PENALTIES FOR VIOLATIONS OF APPROVED CONSTRUCTION PARKING MANAGEMENT PLANS; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AUTHORITY TO CODIFY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Land Development Regulations ("LDRs") of the City of Delray Beach ("City") Code of Ordinances provide authority for the City Commission to amend, change, supplement, or repeal the LDRs from time to time; and

WHEREAS, the LDRs do not currently provide specific standards for the use of rights-of-way for construction staging; and

WHEREAS, it is in the best interests of the City to provide policies and procedures for the use of rights-of-way during construction, inasmuch as infill development has increasingly utilized public rights-of-way for construction staging; and

WHEREAS, the City Commission seeks to amend the LDRs to provide standards and an approval process for the use of right-of-way, in order to prevent extended street closures during construction that negatively impact citizens and existing businesses; and

WHEREAS, pursuant to Florida Statutes 163.3174(4)(c), the Planning and Zoning Board for the City of Delray Beach, sitting as the Local Planning Agency, considered this item at a public hearing on September 21, 2020, and voted 6 to 1 to recommend these proposed text amendments be approved, finding the request and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations; and

WHEREAS, the City Commission of the City of Delray Beach finds this Ordinance is consistent with the Comprehensive Plan, meets the criteria set forth the Land Development Regulations, and is in the best interests of the City.

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

Section 1. That the recitations set forth above are incorporated herein.

Section 2. That Section 7.1.8, “Construction Parking,” of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended to read as follows:

Sec. 7.1.8 – Construction parking and staging.

(A) ***Construction parking.***

(1) ***On-site parking.***

- (a) All construction parking shall be accommodated within the construction site or compound as approved by the Chief Building Official pursuant to Section 2.4.6(F), as amended.
- (b) A site plan, delineating where all on-site parking and material staging will be located, shall be provided prior to issuance of the first building permit associated with the construction parking.
- (c) If all construction-related parking cannot be accommodated on-site, the off-site parking regulations shall apply.

(2) ***Off-site parking — single-family construction projects.***

- (a) Parking is limited to within the swale on the same side of the street as the site and confined to the area of the swale within the virtual extension of the property boundaries into the right-of-way.
- (b) No parking shall encroach into the street pavement.
- (c) The swale area must be restored with sod prior to issuance of the ~~e~~Certificate of ~~o~~ccupancy.
- (d) No parking is permitted within 25 feet of any public right-of-way intersection.
- (e) The street must remain open for vehicular travel at all times unless a temporary street closure with a ~~m~~Maintenance of ~~t~~raffic (MOT) Plan has been approved by the City Engineer.

(3) ***Off-site parking — all construction.***

- (a) If all construction parking cannot be accommodated on-site as required in ~~s~~ubsections ~~(B)~~A(1) or ~~(B)~~A(2), the contractor or applicant is required to submit

a construction parking management plan ~~to the Chief Building Official prior to the issuance of a building permit~~ with the following:

- i. Location of off-site parking, including on-street public parking spaces.
  - ii. Off-site parking property plan, including proposed access and screening.
  - iii. Proof of lease or property owner's consent for off-site parking, including an approved agreement for use of on-street public parking spaces.
  - iv. A site plan delineating where all parking will be located on the property.
  - v. If the property is also being utilized for material staging or as an off-site construction compound, a list of all building materials and supplies stored on the site or in containers on the site shall be provided to the Chief Building Official.
  - vi. Transportation plan indicating how employees will get to and from the jobsite and the offsite parking location.
  - vii. Acknowledgement confirming an understanding of the construction parking plan requirements and requirement to restore off-site parking property within 30 days of certificate of occupancy for associated construction.
- (b) On-street public parking spaces, limited to the same side of the street as the site and confined to the area of the public right-of-way within the virtual extension of the property boundaries into the right-of-way, ~~maybe~~ may be utilized with an agreement approved by the City Manager, or designee. The agreement shall include the cost of lost revenue of any paid parking spaces.
- (c) The Chief Building Official shall approve the construction parking management plan prior to the issuance of a building permit.
- (d) Any modifications to the construction parking management plan must be submitted 72 hours, excluding weekends and holidays, in advance for review and approval by the Chief Building Official, prior to implementation.

~~(B) **Enforcement.** Any violation of the approved construction parking management plan shall be enforced in accordance with Chapter 37, Delray Beach Code Enforcement, of the Code of Ordinances, as amended. Any parking violations shall be enforced in accordance with Section 71.090 of the Code of Ordinances.~~

~~(B) **Construction Staging**~~

- (1) **Purpose and intent.** This subsection provides procedures and standards for staging materials and equipment at construction sites to minimize closures of vehicle travel lanes, bicycle lanes, and pedestrian pathways during the construction process.
- (2) **Requirements.** All construction staging shall meet the following provisions:
  - (a) A Construction Staging Plan must be provided concurrent with a request for site plan approval when it is anticipated that the construction of a project will occupy any portion of the Right-of-Way.
  - (b) The vehicular travel lanes must remain open in all directions throughout construction unless an approved Maintenance of Traffic (MOT) Plan includes a temporary street closure not to exceed 14 days.
  - (c) The reduction of vehicular travel lanes shall not be permitted for any reason other than the installation of required off-site improvements or short-term temporary loading/unloading.
- (3) **Use of Right-of-Way.** Use of the City's Right-of-Way for construction activities that exceed 14 days in duration shall be considered long-term construction staging and shall be limited to sidewalk or on-street parking areas.
  - (a) The use of on-street parking for construction purposes shall be as per Land Development Regulation Section 7.1.8.
  - (b) Use of sidewalk areas for construction staging shall require a sidewalk detour be provided during the duration of use.
  - (c) If adjacent sidewalks are not available for detours, they shall be constructed to facilitate the detour.
  - (d) When the Right-of-Way is under the jurisdiction of Palm Beach County or Florida Department of Transportation, construction staging is subject to review and approval by each jurisdiction.
- (C) **Maintenance of Traffic (MOT) Plan.** All construction parking and staging that involves travel lane, bike lane, or sidewalk closures shall submit a MOT Plan as follows:
  - (1) Closures greater than 14 days throughout the course of construction, which eliminate travel lanes or change the flow of traffic must be approved by City Commission as a request for waiver. Street closures that do not exceed 14 days throughout the course of construction may be approved administratively.
  - (2) Single-family construction projects requiring temporary street closures shall submit a MOT Plan for approval by the City Engineer concurrent with a request for building permit approval.
  - (3) All MOT Plans shall be prepared by a person possessing a valid certification to do so.
  - (4) If access to or signage of nearby establishments is obscured or impacted by construction activity, temporary signage shall be included in the MOT to guide access and improve visibility of businesses during construction. Temporary construction signage shall

conform to the standards for commercial real estate signage and can be approved administratively as part of the MOT, or by the Development Services Director or designee.

(D) **Enforcement.** Any violation of the approved construction parking management plan shall be enforced in accordance with Chapter 37, “Delray Beach Code Enforcement,” of the Code of Ordinances, as amended from time to time. Any parking violations shall be enforced in accordance with Section 71.090 of the Code of Ordinances.

Section 3. All ordinances or parts of ordinances in conflict herewith be, and the same are, hereby repealed.

Section 4. Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part thereof other than the part declared to be invalid.

Section 5. Specific authority and direction is hereby given to the City Clerk to codify this Ordinance.

Section 6. That this ordinance shall become effective immediately upon its passage on second and final reading.

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

ATTEST:

\_\_\_\_\_  
Katteri Johnson, City Clerk

\_\_\_\_\_  
Shelly Petrolia, Mayor

First Reading \_\_\_\_\_

Second Reading \_\_\_\_\_

Approved as to form and legal sufficiency:

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Lynn Gelin, City Attorney