



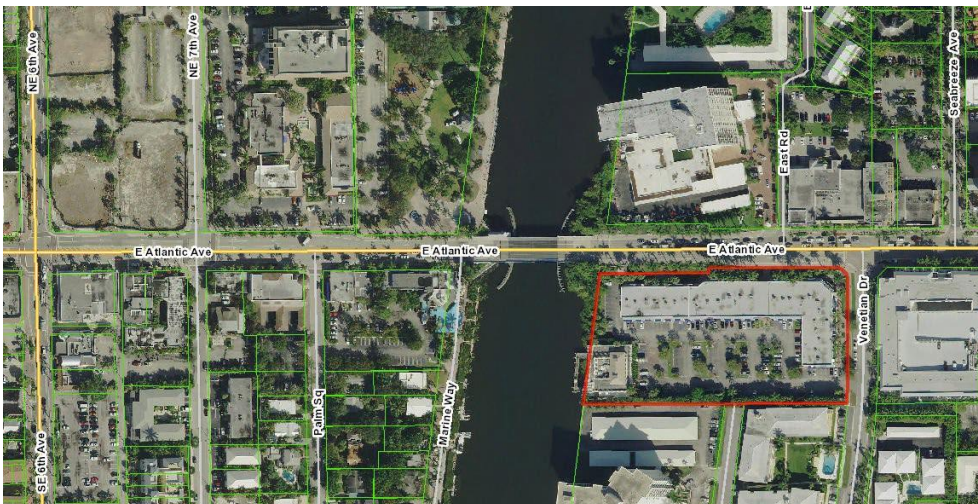
# DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

## PUBLIC NOTICE

**RE: ORDINANCE 12-20, AMENDMENT TO THE LAND DEVELOPMENT REGULATIONS, PROVIDING AN EXCEPTION FOR THE GROUND FLOOR RETAIL REQUIREMENT WITHIN PORTIONS OF THE CENTRAL BUSINESS DISTRICT (CBD)**

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 a City-initiated amendment to the Land Development Regulations, Section 4.4.13 “Central Business District,” Subsection 4.4.13(C)(3)(b), to provide exception to the retail requirement within the Central Core and Beach Sub-districts (see map below).



Within the Central Business District, certain streets are designated as “Required Retail Frontage” as a means of providing a lively, highly active pedestrian environment that supports businesses and reinforces local character. East Atlantic Avenue, Pineapple Grove Way/NE 2<sup>nd</sup> Avenue, and North/South Ocean Boulevard are designated as Required Retail Frontage streets in the Central Core and Beach Sub-

districts. This designation requires 100% of the building frontage at the sidewalk-level story be comprised of retail uses, service establishments, or lodging uses. Ordinance No. 12-20 seeks to re-instate an exception to the ground-floor retail requirement within the Central Core and Beach Sub-Districts for property with a building constructed prior to 1980 with a front setback of 25 feet or greater for 80 percent or more of the building frontage. This amendment would only apply to Waterway East located at 900 East Atlantic Avenue; the only other building that meets the exemption criteria will be demolished as part of the approved Atlantic Crossing redevelopment project. This amendment does not change the allowable uses in the Central Business District Sub-Districts, as described in Table 4.4.13(A). Additional information on this project can be found on the Development Services page at [www.delraybeachfl.gov](http://www.delraybeachfl.gov).

**NOTE:** The proposed amendment previously appeared before the Planning and Zoning Board as Ordinance 17-19 on May 20, 2019, and the Board voted 7-0 to recommend approval. Ordinance No. 17-19 was reviewed by City Commission at first reading on July 2, 2019, and the motion to approve failed 3-1. City Commission recalled the item for rehearing, and Ordinance No. 12-20 was assigned. Pursuant to review by the City Attorney’s Office, this item was reviewed again by the Planning and Zoning Board prior to first and second reading by the City Commission. The Planning and Zoning

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Board voted 6-0 to recommend approval of Ordinance 12-20 at its June 15, 2020 meeting. At City Commission on July 21, 2020, the item did not pass on a vote of 2-3; subsequently at its August 11, 2020 meeting the City Commission voted 5-0 to recall the item for reconsideration. On September 22, 2020, the City Commission voted 5-0 at first reading to approve Ordinance 12-20.

The request and associated 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 the Development Services Department, City Hall 100 NW 1<sup>st</sup> Avenue, FL 33444, by phone at 561-243-7400, Ext. 7044, or by e-mail at [dasarir@mydelraybeach.com](mailto:dasarir@mydelraybeach.com), 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.

ORDINANCE NO. 12-20

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES BY AMENDING SECTION 4.4.13 "CENTRAL BUSINESS DISTRICT," SUBSECTION 4.4.13(C), "ALLOWABLE USES," SUBSECTION 4.4.13(C)(3), "REQUIRED RETAIL FRONTAGE USE LIMITATIONS," SUBSECTION 4.4.14(C)(3)(B) "CENTRAL CORE AND BEACH SUB-DISTRICTS," TO AMEND THE BASIS FOR GROUND FLOOR RETAIL REQUIREMENTS; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Legislature of the State of Florida has, in Chapter 166 -- Municipalities, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, in June of 2007, the City of Delray Beach adopted Ordinance No. 21-07 amending the Central Business District (CBD) regulations establishing an exemption for existing buildings with eighty (80) percent or more of their frontage at a setback of twenty-five (25) feet or greater from the street level or ground floor retail requirement within the Beach Sub-districts; and

WHEREAS, in February of 2015, the City of Delray Beach adopted Ordinance No. 02-15 to repeal and replace Section 4.4.13 "Central Business District", but did not include the exemption for existing buildings as provided in Ordinance No. 21-07; and

WHEREAS, the City of Delray Beach has determined that the justification for allowing such exemption from the retail requirement within the Beach Sub-district remain; and

WHEREAS, properties that meet the exemption criteria remain subject to the permitted uses in Table 4.4.13(A); and

WHEREAS, pursuant to Florida Statutes 163.3174(4)(c), the Planning and Zoning Board for the City of Delray Beach, sitting as the Local Planning Agency, reviewed the proposed text amendment to the Land Development Regulations at a public hearing on June 15, 2020 and voted 6 to 0 to recommend that the proposed text amendment be approved, finding that the request and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations; and

WHEREAS, the City Commission of the City of Delray Beach finds the Ordinance is consistent with the Comprehensive Plan.

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

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

Section 2. That 4.4.13 “Central Business (CBD) District,” Subsection 4.4.13(C), “Allowable uses,” Subsection 4.4.13(C)(3), “Required Retail Frontage Use Limitations,” Subsection 4.4.14(C)(3)(B) “Central Core and Beach Sub-districts,” of the Code of Ordinances of the City of Delray Beach, Florida, be and the same, is hereby amended to read as follows:

- (b) ***Central Core and Beach Sub-districts.*** One hundred of the building frontage at the sidewalk-level story shall be for the following uses (as described in Table 4.4.13(A)):
1. General retail uses and/or facilities, ~~except that sales of automotive parts, lawn care equipment, or second hand material (other than verifiable antiques) are not permitted.~~
  2. Services and facilities, subject to the following:
    - a. ~~Tattoo establishments are not permitted.~~
    - 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:~~
      - i. ~~No more than 75 feet of financial institution frontage is allowed per block face; and~~
      - 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.)~~
  3. Hotels, motels, or residence-type inns.
  4. NEV sales, lease, or rental offices.
  5. Limitations and exceptions.
    - a. Tattoo establishments are not permitted.
    - 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:
      - i. No more than 75 feet of financial institution frontage is allowed per block face; and

- 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.)
- c. Sale of automotive parts, lawn care equipment, firearms, or second hand material (other than verifiable antiques) are not permitted.
- 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.

Section 3. That should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part thereof other than the part declared to be invalid.

Section 4. That all ordinances or parts of ordinances in conflict herewith be, and the same are hereby repealed.

Section 5. Specific authority is hereby given 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 \_\_\_\_ day of \_\_\_\_\_, 2020.

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

ATTEST:

\_\_\_\_\_  
Katerri Johnson, City Clerk

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

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

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
Lynn Gelin, City Attorney