

**ARTICLE 2.2 ESTABLISHMENT OF BOARDS HAVING RESPONSIBILITIES FOR LAND DEVELOPMENT REGULATIONS**

This Article establishes the Boards which are primarily responsible for the implementation and application of these Land Development Regulations. General provisions which govern each Board along with specific provisions for individual Boards and establishment of powers, duties, and responsibilities are set forth herein.

**Section 2.2.1 General Provisions**

- (A) Qualifications
- (B) Compensation and Reimbursements
- (C) Evening Business Meetings
- (D) Appointment and Term, Officers
- (E) Meetings
- (F) Removal of Members, Vacancies
- (G) Assignment of Administrative and Legal Support Services

**Section 2.2.2 The Planning and Zoning Board**

**Section 2.2.3 The Site Plan Review & Appearance Board**

**Section 2.2.4 The Board of Adjustment**

**Section 2.2.5 [Deleted by Ord. 47-07 10/16/07]**

**Section 2.2.6 The Historic Preservation Board**

**Section 2.2.1 General Provisions:** The following general provisions apply to all Boards established under this Article. Additional provisions pertaining to any of the following matters may be found within the Sections pertaining to an individual Board and within Sections 32.06 to 32.10 of the City Code. **[Amd. Ord. 26-11 9/20/11]**

(A) **Qualifications**: A member shall either be a resident of, or own property in the City, and/or own a business within the City. Additional qualifications may be established for individual boards. **[Amd. Ord. 47-07 10/16/07]**

(B) **Compensation and Reimbursements**: All members shall serve without compensation. Reimbursement of expenditures incurred by members in the performance of their duties shall be provided pursuant to policies of the City Commission. The cost of general operating needs shall be a part of the budget of an operating department or division as assigned by the City Manager.

## SECTION 2.2.1 (C)

(C) **Evening Business Meetings**: The regularly scheduled business meetings and special meetings of each Board shall be held in the evening hours (after 5:00 p.m.). This requirement shall not apply to work sessions.

(D) **Appointment and Term, Officers**:

(1) Members of a Board shall be appointed by the City Commission. A term shall consist of two years or the completion of an unexpired term and the subsequent two years. In the case of reorganization or reconstitution of a Board, three members shall be appointed for an initial term of one year. A member shall not serve more than two successive terms on a Board. A member appointed to fill an unexpired term shall not automatically proceed to the next full term, but must be reappointed to it.

(2) A Board shall elect from among its members a Chairperson, Vice-Chairperson, and 2nd Vice-Chairperson. Elections shall be held at a Board's regular monthly meeting in September of each year. The Chairperson shall call all meetings of a Board to order and shall conduct business pursuant to Roberts Rules of Order, newly revised. In the absence of the Chairperson, the Vice-Chairperson shall call and conduct meetings. In the absence of both, the 2nd Vice-Chairperson shall call and conduct meetings. In the event of a vacancy in an office, a Board shall hold a special election for any such vacancy after a full membership has been appointed by the Commission. An officer may succeed himself.

(3) An employee of the City shall be designated, by the City Manager, as an "Ex-Officio" member of a Board and shall sign documents as the Secretary of a Board.

(E) **Meetings**:

(1) In addition to required meetings set forth specifically for each Board, additional business meetings and work sessions may be held as desired. All meetings shall be noticed pursuant to Section 2.42(A) and shall be open to the public.

(2) **Evening Business Meetings**: The regularly scheduled business meetings and special meetings of each Board shall be held in the evening hours (after 5:00 p.m.). This requirement shall not apply to work sessions.

(F) **Removal of Members, Vacancies**:

(1) Members of a Board may be removed by the City Commission pursuant to the provisions of Chapter 32 of the Code of Ordinances. **[Amd. Ord. 19-95 4/4/95]**

(2) Vacancies which occur because of resignation, removal, or expiration of a term shall be filled with a new appointment or reappointment pursuant to policies of the City Commission and requirements of Subsection (D)(1). **[Amd. Ord. 19-95 4/4/95]**

## SECTION 2.2.1 (G)

### (G) **Assignment of Administrative and Legal Support Services:**

(1) The City Manager shall assign appropriate staff, pursuant to Section 2.12(A), to assist each Board in the performance of its duties.

(2) The Chairperson of each Board may request the services of the City Attorney for any meeting of that Board. Other services of the City Attorney shall be obtained through the standard operating procedures of the Administration.

### **Section 2.2.2 The Planning and Zoning Board:**

(A) **Creation:** A Planning and Zoning Board for the City of Delray Beach is hereby created under the authority of the City Charter Section 3.14. **[Amd. Ord. 26-11 9/20/11]**

(B) **Planning and Zoning Board:** The Planning and Zoning Board is hereby designated as the Local Planning Agency for the City of Delray Beach.

(C) **Composition:** The Planning and Zoning Board shall consist of seven (7) members.

#### (D) **Meetings and Quorum:**

(1) The Planning and Zoning Board shall hold at least one regularly scheduled business meeting each month with said meeting being duly noticed and held in the evening hours.

(2) Four members of the Board shall constitute a quorum.

#### (E) **Duties, Powers, and Responsibilities:**

(1) The Board shall prepare and maintain a Comprehensive Plan in compliance with the Florida State Planning Statutes (163 and successor legislation). **[Amd. Ord. 26-11 9/20/11]**

(2) The Board shall prepare a formal Evaluation and Appraisal Report (EAR) of the Comprehensive Plan and shall transmit said report to the State Department of Community Affairs (DCA) through the City Commission. The EAR shall be conducted pursuant to criteria outlined in the "Procedures for Monitoring and Evaluation of the Plan" section of the Comprehensive Plan. **[Amd. Ord. 26-11 9/20/11]**

(3) The Board shall, in a public meeting, review reports prepared pursuant to criteria outlined in the "Procedures for Monitoring and Evaluation of the Plan" section of the Comprehensive Plan. **[Amd. Ord. 26-11 9/20/11]**

## SECTION 2.2.2 (E) (4)

(4) The Board shall, on an annual basis, in a public meeting, review the proposed capital budget for the ensuing fiscal year and shall be guided by Policy F-2.2 of the Public Facilities Element. **[Amd. Ord. 26-11 9/20/11]**

(5) The Board shall hold a public hearing(s) in the winter months of each year for the purpose of obtaining public input before prioritizing capital improvement needs for the subsequent fiscal year. (PF F-2.1)

(6) The Board shall review and make recommendations to the City Commission with respect to the following items, pursuant to the procedures and standards of the Land Development Regulations (LDR): **[Amd. Ord. 26-11 9/20/11]**

- (a) Amendments to the Comprehensive Plan and to the Future Land Use Map
- (b) Rezoning of land and changes to the text of any portion of the Land Development Regulations (LDR)
- (c) The annexation of territory to the City
- (d) Establishment of a conditional use
- (e) The abandonment of rights-of-way or public easements excepting single purpose easements
- (f) The approval or denial of site and development master plans as required in certain "planned" zoning districts
- (g) The establishment or change in street names

(7) The Board hereby has the authority to take action on the following items pursuant to the procedures and standards of the LDR: **[Amd. Ord. 26-11 9/20/11]**

- (a) Approval or denial of a preliminary subdivision plat
- (b) Certification of final subdivision plat
- (c) Granting of relief from the number of parking spaces required for specific uses pursuant to Section 4.6.9(F)(1) **[Amd. Ord. 26-11 9/20/11]**
- (d) Approval of certain site and development plans and modifications and extensions thereto
- (e) Determinations of similarity of use
- (f) Approval or denial of a minor modification of a conditional use approval pursuant to Section 2.4.5(E)(7) **[Amd. Ord. 26-11 9/20/11]**

(8) The Board shall be consulted when it is necessary to make findings addressing consistency between Land Development Applications (LDA) and the Comprehensive Plan. The Board must make such findings for any LDA which goes before it. **[Amd. Ord. 26-11 9/20/11]**

(9) To provide "good offices" and assistance to other governmental boards, commissions, and committees in the fulfillment of goals, objectives, and policies of the Comprehensive Plan.

**Section 2.2.3 The Site Plan Review and Appearance Board:**

(A) **Creation:** A Site Plan Review and Appearance Board for the City of Delray Beach is hereby created. The purpose of this Board is to promote certain functional and aesthetic goals, objectives and policies as set forth in the City's Comprehensive Plan.

(B) **Composition and Special Qualifications:**

(1) The Site Plan Review and Appearance Board shall consist of seven regular members.

(2) Each of five seats on the Board must be filled with either an architect, landscape architect, realtor/real estate broker, civil engineer, general contractor, sign contractor, land planner or interior designer. The remaining two seats shall be at large. The appointing body shall endeavor to appoint as many disciplines as possible to the Board. **[Amd. Ord. 25-04 5/18/04]; [Amd. Ord. 23-92 8/11/92]**

(C) **Meetings and Quorum:**

(1) The Site Plan Review and Appearance Board shall hold at least two regularly scheduled business meetings each month with said meetings being duly noticed and held in the evening hours.

(2) Four members of the Board shall constitute a quorum.

(D) **Duties, Powers, and Responsibilities:**

(1) The Board hereby has the authority to take action on the following items pursuant to the procedures and standards of the LDR: **[Changed Bullets Ord. 36-07 9/18/07]**

- (a) Certain site and development plans, as provided in this Code
- (b) Granting of relief from the number of parking spaces required for specific uses pursuant to Section 4.6.9(F)(1). **[Amd. Ord. 26-11 9/20/11]**
- (c) Granting of relief to Section 4.6.16 through the waiver process [Section 2.4.7(B)] **[Amd. Ord. 83-95 01/09/96]**
- (d) Preliminary and final landscape plans
- (e) Master Sign Programs
- (f) Signage as allowed by Section 4.6.7
- (g) Appeal of administrative interpretations made in application of the sign code and the landscaping code
- (h) Architectural elevations
- (i) Streetscape and landscape features (e.g. walls, fences, lighting, dumpster enclosures, etc.)

## SECTION 2.2.3 (D) (2)

(2) To provide "good offices" and assistance to other governmental boards, commissions, and committees in the fulfillment of goals, objectives, and policies of the Comprehensive Plan.

(3) The Board has the authority to hear appeals to any "Design Guidelines" in Section II of the Beach Property Owners Design Manual for the North Beach & Seagate Neighborhoods as set forth in Section 4.5.13. **[Amd. Ord. 36-07 9/18/07]**

### **Section 2.2.4 The Board of Adjustment:**

(A) **Creation:** A Board of Adjustment for the City of Delray Beach is hereby created under the authority of the City Charter Section 3.14. **[Amd. Ord. 26-11 9/20/11]**

(B) **Composition:** The Board of Adjustment shall consist of five regular members. In addition, there shall be two (2) alternate members. In the absence of a regular member, an alternative member shall be called to sit, and act in lieu of the regular member, by the Chairperson of the Board.

(C) **Meetings and Quorum:**

(1) The Board of Adjustment shall hold two regularly scheduled business meeting each month. However, the required regular meetings shall be canceled if there are no petitions before the Board.

(2) A quorum of the Board consists of four (4) members. The concurring vote of four (4) members shall be necessary to decide in favor of an applicant with respect to reversing a decision of the Chief Building Official or the granting of a variance.

(3) The Chairperson may administer oaths and compel the attendance of witnesses.

(D) **Duties, Powers, and Responsibilities:**

(1) The Board hereby has the authority to hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Chief Building Official, with the exception of interpretations of use matters and other items specifically preempted or granted to others pursuant to these Land Development Regulations.

(2) The Board, so long as its actions are in conformity with the terms of these Land Development Regulations may reverse or affirm, wholly or partly, or may modify the order, requirement, or decision, or determination appealed from and may make such order, requirements, decision, or determination as ought to be made, and to that end shall have powers of the Chief Building Official from whom the appeal is taken.

## SECTION 2.2.4 (D) (3)

(3) The Board has the authority to take action on duly filed appeals with respect to the action of the Chief Building Official concerning interpretation, administration, or enforcement of the following: **[Added by Ord. 47-07 10/16/07]**

- (a) Building Code, Article 7.1, except Sections 7.1.5 through 7.1.7
- (b) Electrical Code, Article 7.2
- (c) Gas Code, Article 7.3
- (d) Housing code, Article 7.4
- (e) Mechanical Code, Article 7.5
- (f) Plumbing code, Article 7.6
- (g) Elimination or Repair of Unsafe Buildings, Article 7.8
- (h) Moving of Building, Article 7.10

(4) The Board hereby has the authority to grant variances and hear appeals from the provisions of: **[Amd. Ord. 36-07 9/18/07]**

- (a) The General Development Standards set forth in Section 4.3.
- (b) Regulations found in the Flood Damage Control Overlay District, Section 4.5.3.
- (c) The supplemental district regulations (Article 4.6) except where said authority is expressly prohibited or granted to others.
- (d) Fire Prevention Codes, Chapter 96 of The City Code, per Section 96.06.
- (e) "District Regulations and Incentives" in Section I of the Beach Property Owners Design Manual for North Beach & Seagate Neighborhoods as set forth in Section 4.5.13. **[Amd. Ord. 36-07 9/18/07]**

(5) The Board has the authority to grant variances to the Noise Code pursuant to City Code Section 99.30.

(6) The Board shall be prohibited from considering: **[Amd. Ord. 47-07 10/16/07]**

- (a) Use variances,
- (b) architectural elevations,
- (c) landscaping plans,
- (d) Variances for signs and signage,
- (e) Any variance action within a designated Historic Preservation District or upon a Historic Site, and
- (f) Variances to height regulations.

(7) To provide "good offices" and assistance to other governmental boards, commissions, and committees in the fulfillment of goals, objectives, and policies of the Comprehensive Plan.

## SECTION 2.2.4 (D) (8)

(8) All decisions of the Board of Adjustment are final. Any person or persons, or any Board, Taxpayer, Department, Board, or Bureau of the City may aggrieve any decision of the Board of Adjustment and may seek review of such decision in the Circuit Court of Palm Beach County. **[Amd. Ord. 53-91 8/27/91]**

### Section 2.2.5 **[Deleted by Ord. 47-07 10/16/07]**

### Section 2.2.6 **The Historic Preservation Board:**

(A) **Creation:** A Historic Preservation Board for the City of Delray Beach is hereby created. The purpose of this Board is to foster and promote the recognition, protection, enhancement and use of historic resources in the City of Delray Beach and to have a lay body which shall have authority to act on matters pertaining to historic preservation.

#### (B) **Composition and Special Qualifications:**

(1) The Historic Preservation Board shall consist of seven members.

(2) Each of five seats on the Board must be filled with either an architect, landscape architect, realtor/real estate broker, civil engineer, general contractor, architectural historian, preservationist, land planner or interior designer. The appointing body shall endeavor to appoint as many disciplines as possible to the Board. Lay persons of knowledge, experience and judgment who have an interest in historic preservation shall make up the balance of the Board. Preference should be given to professional and lay persons who own property within historic districts or whose property is individually listed in the Local Register of Historic Places. **[Amd. Ord 25-04 5/18/04]; [Amd. Ord. 24-96 6/18/96]**

#### (C) **Meetings and Quorum:**

(1) The Historic Preservation Board shall hold at least one regularly scheduled business meeting each month and it shall be held in the evening hours.

(2) Four members of the Board shall constitute a quorum.

(3) An application for a Certificate of Appropriateness shall be approved by a majority of the members present and voting. **[Amd. Ord. 55-07 1/15/08]**

#### (D) **Duties, Powers, and Responsibilities:**

(1) Develop, maintain, and update a survey of archaeological sites, properties, buildings, structures, and districts of special historic, aesthetic, architectural, cultural, or social value or interest. The Board will endeavor to improve, expand, and make more accurate the survey as additional documents, information, oral histories, and other such materials may become available, and it will periodically reevaluate the survey. The Board will work with the City Historical Society, the State Bureau of Historic Preservation, and other appropriate public and nonprofit organizations in maintaining this survey.

## SECTION 2.2.6 (D) (2)

(2) Nominate properties for designation, and regulate such properties, structures, buildings, sites, districts, and the like so designated as historic sites and/or historic districts.

(3) Participate in the National Register program to the greatest possible extent, as defined by the 1981 and subsequent amendments to the Historic Preservation Act of 1966 and regulations and rules drafted pursuant hereto by the National Park Service and the State Bureau of Historic Preservation

(4) Act as a regulatory body to approve, deny, or modify certificates of appropriateness as specified in Section 2.4.6(H). In addition to the Zoning District Regulations, the Historic Preservation Board shall apply the visual compatibility standards provided for in Section 4.5.1(E)(8) with regard to height, width, mass, scale, façade, openings, rhythm, material, color, texture, roof shape, direction, and other criteria set forth in Section 4.5.1. **[Amd. Ord. 30-08 9/16/08]; [Amd. Ord. 55-07 1/15/08]**

***Added (5) and renumbered [Amd. Ord. 23-09 5/19/09]***

(5) Act as a regulatory body to approve, deny, or modify a Master Development Plan. **[Amd. Ord. 23-09 5/19/09]**

(6) Make recommendations concerning land development code amendments to the Planning and Zoning Board, and concerning building code amendments to the Chief Building Official, as they apply to Historic structures and districts.

(7) Act in lieu of Board of Adjustment. The Historic Preservation Board shall act in lieu of the Board of Adjustment and is empowered to grant variances from existing ordinances for properties designated as historic sites, within designated historic districts or listed on the Local Register of Historic Places. In addition, the Board is empowered to grant variances from the sign code for those nonconforming signs which existed at the time of enactment of the sign code and relief to Section 4.6.16 through the waiver process [Section 2.4.7(B)]. Any appeal from the approval or denial of a variance by the Historic Preservation Board shall be directly to the City Commission. **[Amd. Ord. 28-08 08/05/08]; [Amd. Ord. 83-95 01/09/96]**

(8) Develop, establish, and regulate guidelines concerning contemporaneous architectural styles, colors, building materials, and so forth for all properties which are Individually Designated and/or located within historic districts. Such guidelines will be subject to review by the Planning and Zoning Board, and will be subject to approval by the Commission. The Board's consideration and approval of certificates of appropriateness under these guidelines shall be in lieu of consideration and approval by the Site Plan Review Board. **[Amd. Ord. 30-08 9/16/08]**

(9) Make recommendations to the Commission about facade easements, the imposition of other restrictions, and the negotiation of contracts for the purposes of historic preservation.

## **SECTION 2.2.6 (D) (10)**

(10) Increase public awareness of the value of historic preservation by developing, conducting, and participating in public education programs.

(11) Make recommendations to the Commission concerning the use of grants from federal and state agencies, and the use of City funds to promote the preservation and conservation of historically and aesthetically significant archaeological sites, historic sites, and historic districts.

(12) Evaluate, comment upon, and make recommendations to the Commission concerning the deliberations and decisions of other public agencies affecting the physical development and appearance of historically and aesthetically significant archaeological sites, historic sites, and historic districts.

(13) Contact public and private organizations, businesses, and individuals and endeavor to arrange agreements to help insure the conservation and preservation of historically and aesthetically significant sites, buildings, structures, and districts for which demolition or destruction is proposed.

(14) In the name of the City, and only with the express approval of the Commission, seek, apply for, solicit, receive, and expend any federal, state, or private grant, gift, or bequest of any funding, property, or interest in property to further the purposes of historic and heritage conservation and preservation.

(15) Make recommendations to the Commission, and by referral to the Planning and Zoning Board, to make historic preservation concepts an integral and ongoing part of all City planning and zoning codes, the City land use plan, and any comprehensive use planning required by this state.

(16) Create and approve standardized historic markers and plaques and issue recognition to designated historic sites and historic districts within the City.

(17) Advise the Commission on all matters related to the use, administration, and maintenance of city-owned designated historic sites and historic districts.

(18) Execute any other functions which may be approved by ordinance or resolution of the Commission.

(19) Demonstrate a spirit of cooperation with and provide administrative assistance to property owners in the conservation and preservation of historic sites and properties within historic districts.

(20) Develop and maintain a Historic Preservation Manual for the City to help property owners fulfill the regulations and requirements of this section and the regulations for historic preservation developed by the Historic Preservation Board and approval by the Commission.