

**ARTICLE 8.2 THE DOWNTOWN DEVELOPMENT AUTHORITY (DDA)**

**Section 8.2.1 The Downtown Development Authority:**

(A) **Creation:** Due to conditions in the downtown area of Delray Beach, the City Commission by Resolution 9-71, petitioned the State of Florida for establishment of a Downtown Development Authority. An Act to that effect became law on March 22, 1971.

(B) **Reference to the Act:** Provisions of the Act which have direct application to the Land Development activity of the City of Delray Beach are provided in the following subsections. These subsections cannot be amended or altered without concurrent modification of the Act.

**Section 8.2.2 Provisions of the Act: [Repealed Section in its entirety and enacted new Section by Ord 19-09 4/21/09]**

(A) **Definition and Rules of Construction:** Unless qualified in the text the following definitions and rules of construction shall apply hereto:

(1) "Authority" means the Delray Beach Downtown Development Authority hereby created, and any successor to its functions, authority, rights, and obligations.

(2) "City" and "Delray Beach" means the City of Delray Beach, Florida.

(3) "City Commission" means the Delray Beach City Commission and any succeeding governing body of the City.

(4) "Downtown" and "Downtown area" mean the area herein described and to which this Act primarily relates, including the central business district and its environs.

(5) "Herein", "hereby", "hereof", and similar compounds refer to the entire Act.

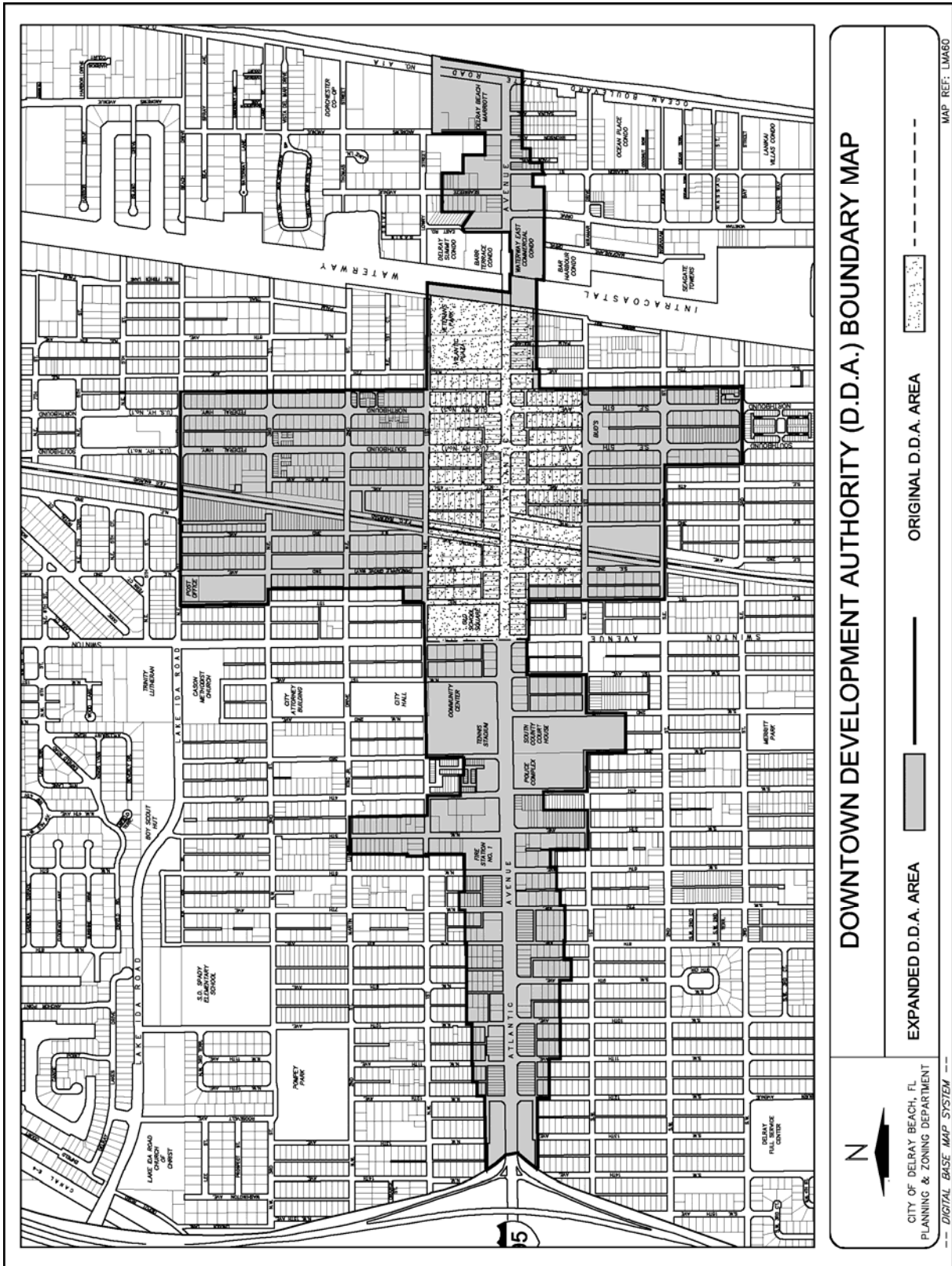
(6) "Including" shall be construed as merely introducing illustrative examples and not as limiting in any way the generality of the inclusive term.

(7) "Majority" without qualification means a majority of a quorum.

(8) "State" means the State of Florida.

(B) **Downtown Area Description:** Downtown Area Description: The original boundary of the Downtown Development Authority as established by Section 3, Chapter 71-604 Laws of Florida 1971, effective May 22, 1971, and the expanded boundary of the Downtown Development Authority as defined by Section 3, Chapter 2003-314 Laws of Florida 2003, effective June 26, 2003, are depicted in Section 8.2.2(B)(1), "Map of the Downtown Development Authority Area", and are generally described within Appendix B of the Land Development Regulations.

(1) Map of the Downtown Development Authority Area:



## SECTION 8.2.2 (C)

**(C) Creation of the Authority, Composition, and Provisions Relating to Members:** There is hereby created a board composed of seven members to be known officially as the "Delray Beach Downtown Development Authority." It is hereby constituted a body corporate and an agency of the City, and performance by the Authority of its duties and exercise of its powers are hereby designated municipal functions and shall be so construed.

(1) The City Commission shall by vote of a majority of its entire membership appoint the members of the Authority, and by vote of four-fifths of its entire membership, after notice specifying the charges and a hearing held not earlier than ten days after personal delivery of notice or mailing thereof by registered or certified mail addressed to the member at his or her latest known residence, the City Commission may remove a member of the Authority for good cause, including willful neglect of duty, incompetence or unfitness to perform his or her duty, or conviction of an offense involving moral turpitude. A member so removed shall be entitled to review by the circuit court of the action taken.

(2) Each member shall be appointed for a term of three years beginning July 1. Two members shall be appointed commencing on July 1 following the referendum approving the expansion of the Delray Beach Downtown Development Authority boundaries.

(3) To qualify for appointment to the Authority, and to remain qualified for service on it, a prospective member or a member already appointed shall reside in or have his or her principal place of business in the City and shall not be serving as a City officer or employee. At least four of the members shall be owners of realty within the Downtown area, a lessee thereof required by the lease to pay taxes thereon, or a director, officer, or managing agent of an owner or of a lessee thereof so required to pay taxes thereon. To the extent that it is possible, appointments to the Authority shall be made so that the members shall be geographically proportioned as evenly as is possible within the Downtown area as described in Section 8.2.2(B).

(4) Vacancy in office, which shall be filled within thirty days of its occurrence for the remainder of the unexpired term, shall occur whenever a member is removed from office, becomes disqualified or otherwise unable to serve, resigns, or disappears without explanation for a period of six months. The City Commission shall fill any vacancy in office for the unexpired term.

(5) Each member of the Authority shall serve without compensation for services rendered as a member but may be reimbursed by the Authority for necessary and reasonable expenses actually incurred in the performance of duty. The Authority need not but may require that all of its members or any or all of its officers or employees be required to post bond for faithful performance of duty, and the Authority shall pay bonding costs. No member of the Authority shall be personally liable for any action taken in attempting in good faith to perform his or her duty, or for a decision not to act, except in instances of fraud or willful neglect of duty.

## SECTION 8.2.2 (D)

(D) **Authority Bylaws and Internal Government:** The Authority shall formulate and may amend its own rules of procedure and written bylaws not inconsistent herewith. A majority of its entire membership shall constitute a quorum for the transaction of business.

All action shall be taken by at least four affirmative votes of the Authority, and each member present shall vote on each matter unless barred from voting as herein provided. The Authority shall select one of its members as Chair and another as Vice Chair and shall prescribe their duties, powers, and terms of serving. It shall hold regular meetings at least once a month and shall provide in its bylaws for holding special meetings. All meetings shall be open to the public.

The bylaws may provide for the Mayor of the City, or his or her representative, to attend meetings of the Board as an ex officio member, but he or she shall not have any vote or power over the Board except that he or she shall be entitled to speak on any issue or question before the Board.

(E) **Functions of the Authority:** The Authority shall perform the following functions:

(1) Prepare an analysis of the economic conditions and changes occurring in the Downtown area, including the effect thereon of such factors as metropolitan growth, traffic congestion, lack of adequate parking and other access facilities, and structural obsolescence and deterioration.

(2) Formulate long-range plans for improving the attractiveness and accessibility to the public of Downtown facilities, promoting efficient use thereof, remedying the deterioration of Downtown property values, and developing the Downtown area.

(3) Recommend to the City Commission and to Downtown businesspersons and residents the actions deemed most suitable for implementing the Downtown development plans, including removal, razing, repair, renovation, reconstruction, remodeling, and improvement of existing structures, addition of new structures and facilities, relocation of any of those existing, and changes in patterns of and facilities for getting thereto and therefrom.

(4) Participate actively in the implementation and execution of Downtown development plans, including establishment, acquisition, construction, ownership, financing, leasing, licensing, operation, and management of public facilities deemed feasible and beneficial in effecting implementation, but this paragraph shall not give the Authority any power or control over any City property unless and until assigned to it by the City Commission under the provisions of paragraph (6) of this section.

(5) Participate actively in plans and programs to encourage economic development and promotion of the Downtown as a prosperous Downtown Area.

## SECTION 8.2.2 (E) (6)

(6) Carry on all projects and undertakings authorized by law and within the limits of the powers granted to it by law, and such additional public projects and undertakings related to the Downtown area as the City Commission may assign to it with its consent.

(F) **Powers of the Authority**: In the performance of the functions vested in or assigned to the Authority it is hereby granted the following powers:

(1) To enter into contracts and agreements, and to sue and be sued as a body corporate;

(2) To have and use a corporate seal;

(3) To acquire, own, convey, or otherwise dispose of, lease as lessor or lessee, construct, maintain, improve, enlarge, raze, relocate, operate, and manage property and facilities of whatever type, and grant or acquire licenses, easements, and options with respect thereto;

(4) To accept grants and donations of any type of property, labor, or other thing of value from any public or private source;

(5) To receive the proceeds of the tax hereby imposed;

(6) To receive the revenues from any property or facility owned, leased, licensed, or operated by it or under its control, subject to the limitations imposed upon it by trusts or other agreements validly entered into by it;

(7) To have exclusive control of all funds legally available to it, subject to limitations imposed upon it by law or by any agreement validly entered into by it;

(8) To cooperate and enter into agreements with any governmental agency or other public body;

(9) To make to or receive from the City or Palm Beach County conveyances, leasehold interests, grants, contributions, loans, and other rights and privileges;

(10) To request by resolution that the City exercise its municipal power of eminent domain in specific instances for the use and benefit of the Authority and, if the City complies with the request and the property involved is acquired, the Authority shall take over and assume control of such property on terms mutually agreed upon between the City and the Authority, but the Authority shall not thereafter be authorized to sell, lease, or otherwise dispose of such property so acquired without the formal consent of the City Commission;

## **SECTION 8.2.2 (F) (11)**

(11) To issue and sell revenue certificates as hereinafter provided, or in any other manner permitted by law and not inconsistent with the provisions hereof, and to take all steps deemed by it necessary or expedient for efficient preparation and marketing of the certificates at public or private sale at the best price obtainable, including the entry into binding agreements with corporate trustees, underwriters, and the holders of the certificates, and the employment and payment, as a necessary expense of issuance, for the services of consultants on valuations, costs, and feasibility of undertaking, revenues to be anticipated and other financial matters, architecture, engineering, legal matters, accounting matters, and any other fields in which expert advice may be needed to effectuate advantageous issuance and marketing;

(12) To fix, regulate, and collect rates and charges for facilities and services furnished by it or under its control and to pledge the revenue to the payment of revenue certificates issued by it;

(13) To borrow money on its unsecured notes, for a period not exceeding nine months, in an aggregate amount for all outstanding unsecured notes not exceeding fifty percent of the proceeds received during the immediately prior fiscal year from the tax hereby imposed, and at an annual rate of interest not exceeding the rate being charged at the time of the loan by banks in the City on unsecured short-term loans to local businesses

(14) To acquire by rental or otherwise and to equip and maintain a principal office for the conduct of its business;

(15) To employ, when deemed necessary, and prescribe the duties, authority, compensation, and reimbursement of expenses of the Director of the Authority, who shall act as its chief executive officer, a general counsel, who shall be an attorney with at least two years of experience in active Florida practice and so engaged at the time of appointment, and such other personnel as it may, after consultation with the Director, deem necessary from time to time; provided, its personnel shall not be under civil service regulations and shall be employed to serve at its pleasure. Its personnel shall not while employed by it serve as City officers or employees, and, with the exception of its Secretary, shall not while employed by it serve as a member of it; and

(16) To exercise all powers incidental to the effective and expedient exercise of the foregoing powers to the extent not in conflict herewith or inconsistent herewith.

## SECTION 8.2.2 (G)

(G) **Levy of Ad Valorem Tax:** For the fiscal year of the Authority beginning within the calendar year 1972, and for each fiscal year thereafter, an ad valorem tax in addition to all other ad valorem taxes is hereby levied annually for the purpose of financing the operation of the Authority on all property in the Downtown area that is subject to ad valorem taxation for City operation expenses. The tax base shall be the assessed valuation made annually by the County tax assessor. The rate shall be one mill on each dollar of tax base in 1972 and each year thereafter; provided, for each year after the first year of levy the Authority, by written notice to the County tax collector at such time as he or she shall specify, may set a rate of less than one mill for the ensuing fiscal year. The County tax collector shall collect the tax when and in the same manner in which he or she collects the City ad valorem taxes, with the same discounts for early payment, and shall pay the proceeds into the City treasury for the account of the Authority.

(H) **Authority Records and Fiscal Management:** The fiscal year of the Authority shall coincide with that of the City.

(1) All funds of the Authority shall be received, held, and secured like other public funds by the appropriate fiscal officers of the City. The funds of the Authority shall be maintained under a separate account, shall be used for only the purposes herein authorized, and shall be disbursed only by the direction of or with the approval of the Authority pursuant to requisitions signed by the Director or other designated chief fiscal officer of the Authority and countersigned in such instances and manner as the Authority bylaws may prescribe. The Authority may pay the City, as an operating expense, a reasonable amount for the services rendered by the City to it at its request.

(2) The Authority bylaws shall provide for maintenance of minutes and other official records of its proceedings and actions, for preparation and adoption of an annual budget for each ensuing fiscal year, for internal supervision and control of its accounts, which function the appropriate City fiscal officers may perform for it at its request, and for an external audit at least annually by an independent certified public accountant who has no personal interest, direct or indirect, in its fiscal affairs. The bylaws shall specify the means by which each of these functions is to be performed and, as to those functions assigned to Authority personnel, the manner and schedule of performance.

(3) No member or employee of the Authority shall participate by vote or otherwise on behalf of the Authority in any matter in which he or she has a direct financial interest or an indirect financial interest other than that of the benefits to be derived generally from the development of the Downtown area. Participation with knowledge of such interest shall constitute malfeasance and shall result, as regards a member, in automatic forfeiture of office or, as regards an employee, in prompt dismissal.

## SECTION 8.2.2 (I)

(I) **Tax Exemption of Authority Property** All income, donations, property, and facilities of the Authority are hereby dedicated to the effectuation of essential municipal purposes, their use is declared an essential municipal function, and they are granted the same exemptions from taxation as are afforded to income, property, and facilities of the City.

(J) **Provisions Governing Issuance of Certificates:** Issuance of revenue certificates by the Authority shall be governed by the following general provisions:

(1) Revenue certificates for purposes hereof are limited to obligations that are secured solely by pledge of revenues produced by the facility or facilities for the benefit of which the certificates are issued and the sale proceeds used, that do not constitute a general debt of the Authority, that are not secured directly or indirectly, in whole or in part, by pledge of taxing powers, and that do not constitute a lien or encumbrance, legal or equitable, on any real property of the Authority or on any of its personal property other than the revenues pledged to secure payment of the certificates.

(2) The faith and credit of the City shall not be pledged and the City shall not be obligated directly or indirectly to make any payments on or appropriate any funds for certificates issued by the Authority.

(3) The rate or rates of interest and the sale price of the certificates by the Authority shall be such that the net interest cost to it on the proceeds received from the sale shall not exceed an average annual rate of eight percent, computed with relation to the absolute maturity of the certificates in accordance with standard tables of bond values and excluding from the computation the amount of any premium to be paid on redemption of the certificates prior to maturity.

(4) Before issuing any revenue certificates, the Authority shall, as to each issue: (a) prepare or procure from a reputable source detailed estimates of the total cost of the undertaking for which the certificates are contemplated and of the annual revenues to be obtained therefrom and pledged as security for payment of the certificates; (b) determine that the anticipated net proceeds from their sale, together with any other funds available and intended for the purposes of the issue, will be sufficient to cover all costs of the undertaking and of preparing and marketing the issue or connected therewith; (c) determine that the annual revenues anticipated from the undertaking will be sufficient to pay the estimated annual cost of maintaining, repairing, operating, and replacing to any necessary extent not only the undertaking but also the punctual payment of the principal of and interest on the contemplated certificates; and (d) shall specify these determinations in and include the supporting estimates as parts of the resolution providing for the issue.

## SECTION 8.2.2 (J) (5)

(5) The Authority may, as to any issue or revenue certificates, engage the services of a corporate trustee for the issue and may treat any or all of the costs of carrying out the trust agreement as part of the operating costs of the undertaking for which the certificates are issued.

(6) The Authority shall from time to time establish such rentals, rates, and charges, or shall by legally binding agreement maintain such control thereof, as to meet punctually all payments on the certificates and also the costs of operation of the undertaking and its maintenance and repair, including reserves therefor and for depreciation, replacement, and any necessary extensions.

(7) Revenue certificates may be issued for the purposes of funding, refunding, or both.

(8) All revenue certificates issued pursuant hereto shall be negotiable instruments for all purposes.

(K) **Transfer Upon Cessation of the Authority:** Should the Authority cease to exist or to operate for whatever reason, all its property of whatever kind shall forthwith become the property of the City, subject to the outstanding obligations of the Authority, and the City shall use this property to the maximum extent then practicable for effectuating the purposes hereof and shall succeed to and exercise all powers of the Authority insofar as such exercise is not in conflict with or inconsistent with the provisions of the City charter or other law applicable to the City.