

ORDINANCE NO. 09-15

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF DELRAY BEACH, FLORIDA, BY AMENDING SECTION 4.6.9, "OFF-STREET PARKING REGULATIONS", SUBSECTION 4.6.9 (E), "LOCATIONS OF PARKING SPACES", PARAGRAPH 3 "IN LIEU FEE" TO CREATE TWO NEW AREAS; PROVIDING A SAVING CLAUSE, A GENERAL REPEALER CLAUSE, AND AN EFFECTIVE DATE.

WHEREAS, pursuant to LDR Section 1.1.6, the Planning and Zoning Board reviewed the proposed text amendment at a public hearing held on March 16, 2015 and voted 5 to 0 to approve the amendments; and

WHEREAS, pursuant to Florida Statute 163.3174(4)(c), the Planning and Zoning Board, sitting as the Local Planning Agency, has determined that the change is consistent with and furthers the goals, objectives, and policies of the Comprehensive Plan.

WHEREAS, the City Commission of the City of Delray Beach adopts the findings in the Planning and Zoning Staff Report; 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 Section 4.6.9, "Off Street Parking Regulations, "Subsection (E), "Locations of Parking Spaces", Paragraph (3), "In-Lieu Fee", of the Land Development Regulations of the City of Delray Beach, Florida, be, and the same is hereby amended to read as follows:

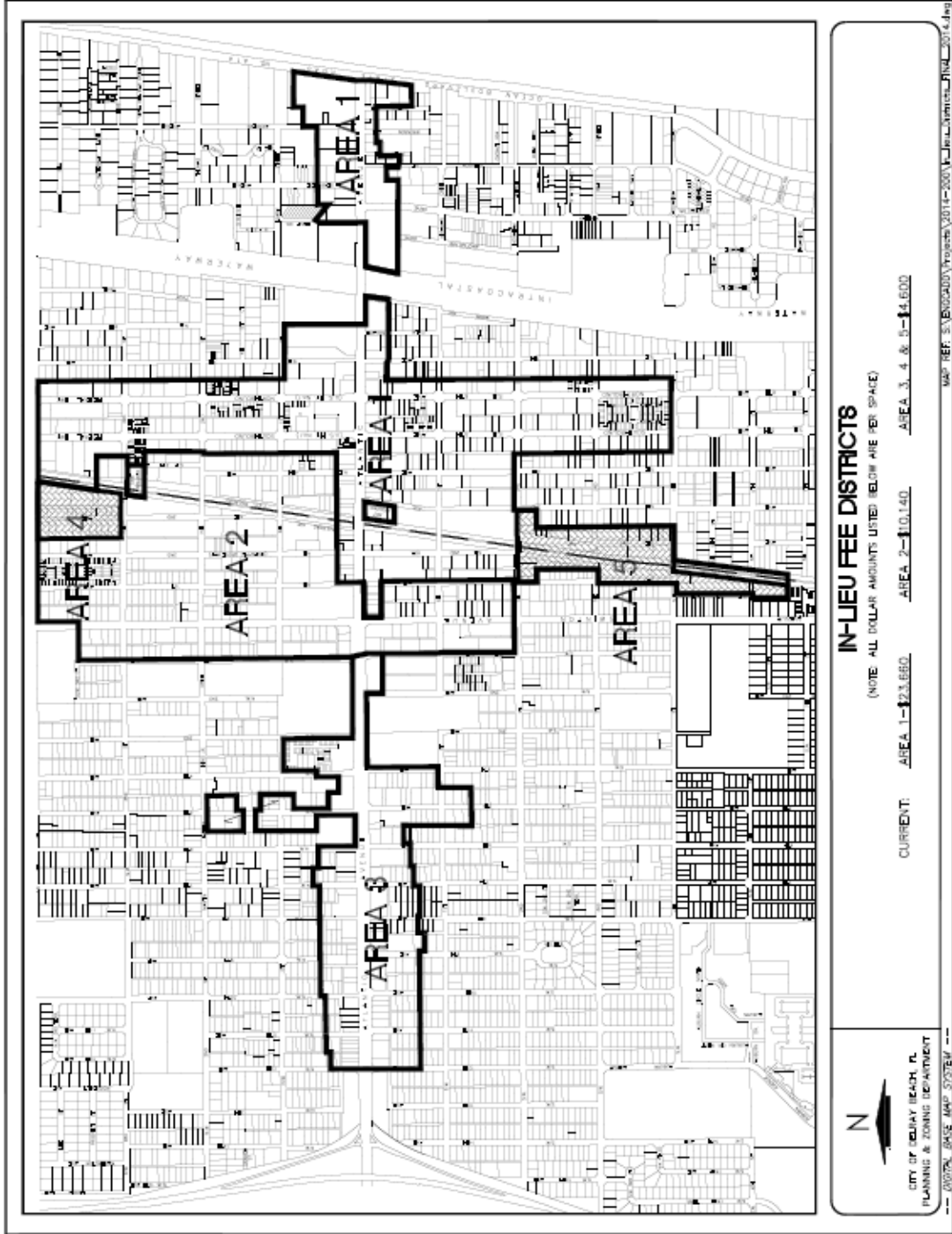
(3) **In-Lieu Fee:** Subject to the limitations of this Section, new development, use conversion to existing buildings, building additions and/or renovations, that result in the requirement to provide new parking or additional parking, have the option of requesting some of the parking spaces to be approved by the City Commission through the payment in-lieu of parking program. Required parking for exclusively residential development or residential components of mixed use developments are not eligible for this in-lieu option. A maximum limit of 30% of eligible required parking can be provided under this option,

except for use conversions for which there is no maximum. Before granting such approvals, the City Commission must find that adequate public parking options are available and that the request is consistent with the Land Development Regulations, City Comprehensive Plan, and all currently adopted City policies and/or studies.

Payment of a fee in-lieu of required parking shall be pursuant to the following provisions.

- (a) The in-lieu fee is authorized only in the CBD and OSSHAD Zoning Districts, in compliance with the Supplemental District Regulations provisions therein.
- (b) Arrangements for payment shall be approved by the City Commission at the time of the approval of the in-lieu fee. The fee amount shall be based upon the location of the property for which in-lieu fees are being sought. Area descriptions and corresponding fee amounts are hereby established as follows: (See corresponding map).
 - (1) Area 1: Parcels located east of the Intracoastal Waterway which are zoned CBD - \$18,200 per space. Parcels located east of the Intracoastal Waterway which are zoned CBD and parcels located west of the Intracoastal Waterway which are zoned CBD and which are not included within the Pineapple Grove Main Street area, West Atlantic Neighborhood, Block 69, and Area 4 and Area 5 as described in this section and parcels located in the Old School Square Historic Arts District (OSSHAD) - \$23,660 per space.
 - (2) Area 2: Parcels located west of the Intracoastal Waterway which are zoned CBD and which are not included within the Pineapple Grove Main Street area, West Atlantic Neighborhood or Block 69 located in the Old School Square Historic Arts District (OSSHAD) - \$15,600 per space. Parcels located within the OSSHAD zoning district, Block 69, and parcels located within the Pineapple Grove Main Street area which are zoned CBD - \$10,140 per space.
 - (3) Area 3: Parcels located within the OSSHAD zoning district, except for Block 69 as noted in Area 2; and parcels located within the Pineapple Grove Main Street area which are zoned CBD or CBD-RC - \$7,800 per space. Parcels located within the West Atlantic Neighborhood which are zoned CBD - \$4,600 per space.

- (4) Area 4: Parcels located south of NE 4th Street, east of the north/south alley between NE 2nd and NE 3rd Avenues, north of NE 3rd Street, and west of the FEC Railroad that are zoned CBD - \$4,600 per space.
- (5) Area 5: Parcels located south of SE 2nd Street, East of Swinton Avenue, north of SE 7th Street and west of SE 3rd Avenue that are zoned CBD.- \$4,600 per space.



- (c) All proceeds from such a fee shall be used for parking purposes or pedestrian/bicycle infrastructure purposes.
- (d) For property owners opting to pay in full, or lessees of properties, payment of the in-lieu fee is due upon issuance of a building permit.

The in-lieu fee may be paid in full upon issuance of a building permit or in installments. Applicants for an in-lieu fee which is not paid in full at time of permit must enter into an In-Lieu of Parking Fee Agreement with the City prior to or upon issuance of a building permit. Such agreement shall be recorded with the Public Records Office of Palm Beach County, Florida. The obligations imposed by such an In-Lieu of Parking Fee Agreement constitute a restrictive covenant upon a property, and shall bind successors, heirs and assigns. The restrictive covenant shall be released upon full payment of the in-lieu parking fees including attorneys' fees and costs. In-Lieu of Parking Fee Agreements shall only be made between the City and the Owner(s) of the subject property. If an In-Lieu of Parking Fee Agreement is entered into, installment payments shall be made over a three-year time period in three installments. The first installment shall be 50% of the total fee and is to be paid upon signing the agreement. The second installment shall be 25% of the total fee and is due on the second anniversary date of the signing of the agreement. The third and final payment of 25% of the total fee is due on the third anniversary date of the signing of the agreement. There shall be no interest due under this payment schedule.

- (e) In addition to in-lieu fees due, where adequate right-of-way exists adjacent to a proposed project for which an in-lieu parking fee has been approved, the applicant must construct additional on-street parking, not to exceed the total amount of spaces subject to in-lieu fees unless authorized by the City Commission. The applicant will be credited up to one-half of a parking space for each full parking space constructed within public right-of-way. (For example, the applicant requests to pay the in-lieu fee on 4 spaces; the applicant constructs 4 spaces in the right-of-way; the applicant must only pay the in-lieu fee for 2 spaces). Crediting of spaces constructed in the right-of-way resulting in a fraction shall be rounded down. Credit may not be taken for those parking spaces constructed in the public right-of-way which are required to meet the performance standards for new developments.
- (f) Requests to allow in-lieu fee payments that are not associated with a site plan or a site plan modification shall expire two years after such request is approved. The fee charged shall be the fee that is set forth in the Land Development Regulations at the time payment is made for spaces required to accommodate the associated site plan or site plan modification.

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. That this ordinance shall become effective upon its adoption on second and final reading.

PASSED AND ADOPTED in regular session on second and final reading on this the _____ day of _____, 2015.

Cary Glickstein, Mayor

ATTEST:

City Clerk

First Reading _____

Second Reading _____