

AGENDA ITEM REPORT

October 13, 2015

ITEM NUMBER: 10.

ITEM: Consideration and Approval of an ordinance on **first** reading requested by Mayor Leonard amending Section 11 of the Town Code entitled land development regulations to create a new Green / Sustainable Building Program. Enclosed find a copy of the proposed ordinance and supporting documents.

DESCRIPTION:

At the September 16th, Regular Meeting, Staff was instructed to draft a ordinance on first reading setting forth a Green / Sustainable Building Program for new developments. The program is gear to encourage new developments to design and built "greener" buildings. The initial draft ordinance would mandate Town buildings to be LEED certified and private development this would be optional, but incentives would be given to those who meet certain ratings.

Enclosed find a copy of the proposed ordinance and staff report from Town Planner, Michael Miller.

RECOMMENDED ACTION:

Council Discretion.

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Alba Chang, Deputy Town Clerk
Jordan Leonard, Mayor

ATTACHMENTS

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| 1. | Staff Report | TC Staff Report Sept 30 2015.pdf |
| 2. | Draft Ordinance | Sustainable Building Program Draft Ord Sept 29 2015.pdf |

**TOWN OF BAY HARBOR ISLANDS
COMMUNITY DEVELOPMENT
MEMORANDUM**

To: Mayor and Town Council Members
Town of Bay Harbor Islands

CC: Ronald J. Wasson - Town Manager
Craig Sherman, Esq. - Town Attorney
Marlene Marante, CMC - Town Clerk

From: Michael J. Miller, AICP
Consultant Town Planner

Date: September 30th, 2015

Subject: Town of Bay Harbor Islands, Florida
Green / Sustainable Building Program
Draft Land Development Regulations
MMPA Acct. No. 01-0702-0800

ISSUE / ANALYSIS:

The Town has recently been discussing ways to set forth the Town's desired objectives for "green / sustainable building programs". This topic has been in the forefront of government discussions for several years now, including the Federal, State, Counties and local levels. State law (Sec. 255.2575 F.S.) requires that county and municipal buildings must meet certain sustainable building ratings. For private development this is mostly optional, but incentives are given to encourage developers to meet certain ratings. There are several private groups that have developed sustainable building rating / incentive systems for designing and building "greener" buildings. In some cases incentives are given such as tax credits or fee reductions. Some "green initiatives" are simple such as using more energy efficient light bulbs or light sensors / timers, upgraded air-conditioning systems, fleet fuel changes or Landscape Codes that require shade trees. The Florida Building Code is one of the toughest in the world - it is estimated by most Building Officials / architects that new buildings built today would be equal to a "Bronze" LEED rating. Several local governments in South Florida have enacted various forms of Policy statements, action plans and land development regulations (LDRs), some of which are quite costly. Some of the local governments have very detailed / elaborate LDRs that require while others are more passive. Research was done of several other communities, including the City of Pinecrest, which was noted to have an advanced program. MMPA was instructed to prepare a draft set of LDRs for the Town based on the "Pinecrest Model" (mandatory for government / optional for private). Attached is our initial draft Ordinance.

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING THE TOWN'S CODE OF ORDINANCES; AMENDING CHAPTER 11 ENTITLED LAND DEVELOPMENT REGULATIONS; CREATING A NEW ARTICLE V TO BE ENTITLED SUSTAINABLE BUILDING PROGRAM; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Bay Harbor Islands adopted the first Zoning and Planning Code for the community in June 1957; and

WHEREAS, the Town Council periodically studies various land development trends and issues, and considers strategies and design guidelines to encourage the proper development and re-development of lands within the Town, and amends the Zoning and Planning Code accordingly; and

WHEREAS, the Town has retained the services of urban planning professionals to study land development activities and land development regulations and to recommend strategies and/or Code modifications to address identified problems; and

WHEREAS, Section 255.2575 of the Florida Statutes requires that county and municipal buildings meet certain sustainable building ratings such as the U.S. Buildings Council's LEED system, GBI's Green Globes, the Florida Green Building Coalition green building standards, or other nationally recognized building rating standard; and

WHEREAS, the Town Council also desires to promote and encourage the construction of sustainable buildings by the private sector; and

WHEREAS, the U.S. Green Building Council (USGBC) has developed the Leadership in Energy and Environmental Design (LEED) rating system that is a voluntary, multi-tiered certification program for sustainable buildings; LEED buildings conserve materials, energy, water, and other natural resources and provides occupants with healthier and more productive interior environments; and

WHEREAS, the Florida Green Building Coalition (FGBC), a non-profit corporation, has developed the Florida Green Building Residential and Remodeling Designation Standard, the Florida Green Commercial Designation Standard, the Florida Green Development Designation Standard, and Green Local Government standard providing opportunities for development to "be green", and providing examples and resources for achieving certification; and

WHEREAS, the University of Florida (UF) Institute of Food and Agriculture Sciences (IFAS) has developed a landscaping education and recognition program, Florida

Yards and Neighborhoods, that addresses serious problems of pollution in storm-water runoff, water shortages, and disappearing habitats with environmentally conscious landscaping principles; and

WHEREAS, the U.S. Department of Energy (DEO) and U.S. Environmental Protection Agency (EPA) have developed the Energy Star labeling program to identify and promote energy-efficient products and programs to reduce greenhouse emissions; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) of the Town to review the proposed modifications to the Town's Land Development Regulations; and

WHEREAS, the Town Council held duly advertised public hearings to consider the proposed modifications to the Town's Land Development Regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA:

Section 1: That the Town of Bay Harbor Islands Land Development Regulations contained within Chapter 11 is hereby amended to add a new Article V, establishing a Sustainable Building Program, as more fully set forth in the attached Exhibit "A", and by reference are made a part hereof.

Section 2: That is any section, paragraph, sentence or word of this Ordinance or the application thereof to any person or circumstance is held invalid, that the invalidity shall not affect the other sections, paragraphs, sentences, words or application of this Ordinance.

Section 3: That it is the intention of the Town Council of the Town of Bay Harbor Islands, and it is therefore ordained, that the provisions of the Ordinance shall become and be made a part of the Town of Bay Harbor Islands' Code of Ordinances, that sections of this Ordinance may be re-numbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 4: That all Ordinances, parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

Section 5: That this Ordinance shall be in full force and take effect immediately upon its passage and adoption.

PASSED on First Reading this ___ day of _____, 2015.

PASSED on Second Reading this ___ day of _____, 2015.

JORDAN W. LEONARD
Mayor

ATTEST:

MARLENE M. SIEGEL
Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

CRAIG SHERMAN, ESQ.
Town Attorney

EXHIBIT "A"

**The Town of Bay Harbor Islands, Florida Code of Ordinances
is hereby amended as follows:**

CHAPTER 11

LAND DEVELOPMENT REGULATIONS

ARTICLE V. SUSTAINABLE BUILDING PROGRAM

Sec. 11-60. - Sustainable building program.

(a) Purpose and intent. The purpose is to establish goals, programs and procedures that will help the Town become a more sustainable community. This program shall establish new environmental goals for the Town, define a certification-based sustainable building program with incentives, and define new measurement parameters and reporting criteria to track the Town's performance toward its environmental goals. This program will promote economic and environmental health in the Town, through the design, construction, operation, and deconstruction of its own facilities and provide leadership to both the private and public sectors in the arena of sustainable building and development practices and resource efficiency. Specific practices are outlined below.

- (1) Promote a sustainable future that meets today's needs of a stable, diverse and equitable economy without compromising the ability of future generations to meet their needs by:
 - a. Protecting the quality of the air, water, land, and other natural resources;
 - b. Conserving native vegetation, wildlife and habitat;
 - c. Minimizing human impacts on local ecosystems and ecosystems worldwide;
 - d. Reducing greenhouse gas emissions.
- (2) Become a leader in setting policies and practicing service delivery innovations that promote environmental sustainability.
- (3) Create a sustainable community by delivering renewable energy and energy-efficient projects, developing green buildings and water-thrifty landscapes, resource education, and utilizing recycling and environmentally sound solid-waste services.
- (4) Establish a sustainable building program to:
 - a. Improve the economic and environmental health of the Town through measurable objectives;
 - b. Track and analyze key indices to measure performance in Town buildings and facilities;
 - c. Commit the Town to achieve green designations in a fiscally responsible manner;

- d. Provide incentives for voluntary compliance;
- e. Provide green building educational opportunities for the community; and
- f. Assist the Town in meeting its overall goal of reducing emissions, energy needs, and water consumption.

(b) Government leadership.

- (1) To demonstrate the Town's commitment to a sustainable building program, the Town shall:
 - a. Strive to achieve a Gold Level FGBC Local Government designation. For any building or office project undertaken by the Town, the Town will participate in the sustainable building program; and
 - b. Track and report the Town's monthly water and energy use; and
 - c. Publish an annual report that outlines the Town's energy and water use for the prior year and outlines methodologies for potential reductions in the subsequent year.
- (2) The Town recognizes USGBC, FGBC, and Energy Star as the official standards for the Town, and it shall be the policy of the Town to finance, plan, design, construct, manage, renovate and maintain its facilities and buildings to be sustainable. It is the Town's intent that all buildings constructed meet criteria standards of USGBC LEED, Florida Green Building Coalition Green Building certification, Energy Star, or similar state or nationally recognized program certification standards.

(c) Applicability.

- (1) For all private construction projects, compliance with this Code is voluntary.
- (2) For all new buildings constructed and owned by the Town, and for all modifications to existing town-owned buildings where the total renovation includes more than 50 percent of the total building square footage, the Town is expected to design and construct buildings and modifications in accordance with the criteria and standards of USGBC LEED, Florida Green Building Coalition Green Building certification, Energy Star, or similar state or nationally recognized program certification standards unless the costs associated with participation significantly outweigh the benefits of participation.

(d) Definitions.

For purposes of this chapter, the following terms, words and phrases shall have the following meanings:

Energy Star means the U.S. Department of Energy (DOE) and U.S. Environmental Protection Agency (EPA) Energy Star labeling program.

FGBC is an acronym for the Florida Green Building Coalition, Inc., a non-profit corporation, whose mission is to establish and maintain a Florida system of statewide green building standards and third party certification programs with environmental and economic benefits.

GBI is an acronym for the Green Building Initiative, a non-profit organization whose mission is to accelerate the adoption of building practices that result in energy efficient, healthier, and environmentally sustainable buildings by promoting credible and practical green building approaches for residential and commercial construction.

GBI's Green Globes means the Green Building Initiative's Green Globes rating system.

LEED means the Leadership in Energy and Environmental Design Rating System of the U.S. Green Building Council.

Sustainable Building means generally the resource efficient design, construction, and operation of buildings by employing environmentally sensible construction practices, systems, and materials. Sustainable building also means an office, residential or Town structure which has obtained sustainable building certification.

Sustainable Building Certification means the final designation awarded to a program participant for a particular project for satisfying all requirements associated with LEED certification, GBI's Green Globes rating system, Energy Star, or FGBC's standards.

USGBC is an acronym for the U.S. Green Building Council, a non-profit organization whose mission is to transform the way buildings and communities are designed, built and operated, enabling an environmentally and socially responsible, healthy and prosperous environment that improves the quality of life.

(e) Administration.

- (1) The building department is responsible to ensure compliance with applicable requirements of this Code in the construction of new Town-owned buildings, when participation in the sustainable building program is authorized by the Town Manager.
- (2) The building department shall coordinate at least two training workshops per year for the purpose of educating Town staff in the provisions and requirements of the Bay Harbor Islands Sustainable Building Program, and shall provide information and outreach to residents, businesses, and contractors through newsletters, brochures and other community outreach efforts.
- (3) The building department shall make available fast track development review pursuant to the requirements of the sustainable building program.
- (4) The sustainable building program shall be administered on either a per-unit or per-development basis, as specified at the time of permitting. "Per-unit" means each unit built, except that any multi-family dwelling or similarly clustered structure may count as one unit. "Per-development" means each planned development or subdivision.

(f) Environmental sustainability account. The Town shall establish and maintain an environmental sustainability account. The account may be utilized as a source for training, awards, and other direct costs associated with administration of the sustainable building program, subject to availability of funds and appropriation by the Town Council.

(g) Standards. Published LEED standards of the USGBC, FGBC green building standards, GBI's Green Globes rating system, Energy Star standards, or similar state or nationally recognized program certification standards shall be used to measure compliance of buildings participating in the sustainable building program.

(h) Incentives. The incentives contained in this section are intended to encourage the construction of sustainable buildings. For any program participant seeking sustainable building certification for new residential or commercial construction, residential or commercial retrofitting/remodeling, or new Town-owned buildings, the following incentives shall be made available:

- (1) Expedited permitting and fast track development review.
 - a. Development services for sustainable building program projects, including review of site plans and review of applications for building permits, shall be given priority over review of applications for projects that are not sustainable building program projects by all Town departments reviewing such applications. Building permit applications for green buildings shall be accompanied by the appropriate sustainable building permit program application form.
 - b. Applications for subdivision plat approval shall be given priority over other applications provided the developer records in the public records of Miami-Dade County covenants or other restrictions sufficient to require that the development meets the certification criteria as an FGBC Green Development or all homes in the subdivision will be constructed so as to qualify for sustainable building certification.
 - c. Applicants who obtain priority status pursuant to this Code shall provide proof of sustainable building certification, or preliminary sustainable building certification, to the building department within 120 days of construction completion, as defined by the certificate of occupancy or certificate of use issue date. Application forms for sustainable building certification and agreements with property owners or developers seeking priority status may provide that property owners or developers who obtain priority status but fail

to obtain sustainable building certification may be denied future priority status by the Town Manager.

d. Applicants for building permits who wish to receive expedited permitting and fast track development review for buildings that are not eligible for sustainable building certification may receive expedited permitting and fast track review upon payment of permit fees in the amount of 125 percent of regular permit fees as adopted by Town Council by resolution.

(2) Rebate of permit fees. Building permit and plan review fees shall be rebated upon certification of sustainable building program projects, including one- and two-family residential projects, and remodeling projects that meet the certification requirements of USGBC, FGBC, GBI's Green Globes, or Energy Star. Proof and verification of certification shall be required as a condition of the rebate of fees by the Town and shall be submitted to the town within 120 days of issuance of a certificate of occupancy or certificate of use to be eligible. Rebates shall be provided pursuant to the following schedule:

a. A rebate of thirty (30) percent of paid permit and plan review fees for FGBC "Gold," USGBC "Platinum," or four (4) Green Globes certification;

b. A rebate of twenty-five (25) percent of paid permit and plan review fees for FGBC "Silver," USGBC "Gold," or three (3) Green Globes certification;

c. A rebate of twenty (20) percent of paid permit and plan review fees for FGBC "Bronze," USGBC "Silver," or two (2) Green Globes certification; and

d. A rebate of fifteen (15) percent of paid permit and plan review fees for FGBC "Certified," USGBC "Certified," Energy Star "Certified," "Certified" remodel, or one (1) Green Globe certification.

(3) Green building award. For the purpose of publicly recognizing outstanding commitment to "green building and construction practices" the sustainable building program shall provide for an award of a framed Town proclamation to be awarded annually to each program participant receiving a recognized certification.

(4) Recognition. The Town shall coordinate a program of recognition, on the Town web site or through other additional means, identifying participating sustainable building projects.

(5) Signage.

a. A builder may install one additional temporary construction sign, not to exceed twenty-four (24) square feet in area that notes: "This project is a Town of Bay Harbor Islands Green Certified Project by (Company Name)" and/or "Certified Florida Yards & Neighborhoods."

b. A developer of a commercial project may add the notation, "Town of Bay Harbor Islands Green Certified Project" in four-inch letters on permitted project entry and identification signs.