



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, City Manager

THRU: Alexandra Bernard, Growth Management Director

DATE: 8/4/2022

RE: Ordinance 2022-85, amending the Code of Ordinances, Chapter 169, Land Development Code, Subchapter 'Green Development Incentive Program', by repealing the subchapter in its entirety (T-33-2022, City of Palm Bay), first reading. (Deputy Mayor Johnson)

Staff is requesting to repeal Sections 169.010 through 169.015, related to the Green Development Incentive Program, in its entirety, and add similar language and guidelines for voluntary low impact development (which includes "green development" and incentives for such) to an existing section of the Land Development Code.

The City of Palm Bay (Growth Management Department), at the request of Deputy Mayor Kenny Johnson, has submitted for a textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 174: Floodplain and Stormwater Management, Stormwater Management and Conservation, Part 2: Drainage Plan, Section 174.068(AA) Design Standards. The subject amendment enables the implementation of Voluntary Low Impact Development (LID) providing flexibilities, waivers, and other incentives to developer that elect to implement design standards for new development or redevelopment.

REQUESTING DEPARTMENT:

Growth Management

FISCAL IMPACT:

There is no fiscal impact.

RECOMMENDATION:

Motion to approve an ordinance amending the Palm Bay Code of Ordinances, Title XVII, Land Development Code, repealing Sections 169.010 through 169.015 in its entirety.

Planning and Zoning Board Recommendation:

Unanimous approval of the request.

ATTACHMENTS:**Description**

Case T-33-2022 - Staff Report

Case T-33-2022 - Application

Case T-33-2022 - Board Minutes

Ordinance 2022-85



STAFF REPORT

LAND DEVELOPMENT DIVISION

120 Malabar Road SE • Palm Bay, FL 32907 • Telephone: (321) 733-3042

landdevelopmentweb@palmbayflorida.org

Prepared by

Jesse D. Anderson, Assistant Growth Management Director

CASE NUMBER

T-33-2022

PLANNING & ZONING BOARD HEARING DATE

July 6, 2022

APPLICANT

City of Palm Bay (Public Works
Department – Requested by Deputy
Mayor Kenny Johnson)

PROPERTY LOCATION/ADDRESS

Not Applicable

SUMMARY OF REQUEST

A Textual Amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 174: Floodplain and Stormwater Management, Stormwater Management and Conservation, Part 2: Drainage Plan, Section 174.068(AA) Design Standards, and repealing Sections 169.010 through 169.015 in its entirety, to modify guidelines for voluntary low impact development.

Existing Land Use

Not Applicable

Site Improvements

Not Applicable

Site Acreage

Not Applicable

SURROUNDING ZONING & USE OF LAND

North

Not Applicable

East

Not Applicable

South

Not Applicable

West

Not Applicable

BACKGROUND:

A Textual Amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 174: Floodplain and Stormwater Management, Stormwater Management and Conservation, Part 2: Drainage Plan, Section 174.068(AA) Design Standards, and repealing Sections 169.010 through 169.015 in its entirety, to modify guidelines for voluntary low impact development. See proposed changes below:

The applicant for this amendment is the City of Palm Bay, Florida. The applicant is looking to modify guidelines for voluntary low impact development by amending Chapter 174: Floodplain and Stormwater Management, Stormwater Management and Conservation, Part 2: Drainage Plan, Section 174.068(AA) Design Standards, and repealing Sections 169.010 through 169.015 in its entirety.

Proposed language for this amendment is attached in legislative style with additions between >>arrow<< symbols and deletions in ~~strikethrough~~ format.

INTENT AND APPLICABILITY:

In order to mitigate stormwater pollution by providing for the voluntary use of low impact development best practices that protect, maintain, and enhance both the immediate and the long term health, safety, and general welfare of the citizens of the city, this subchapter has the following objectives:

- (A) To encourage productive and enjoyable harmony between man and nature;
- (B) To provide protection of land, improvements, and natural resources through the use of responsible stormwater management and flood protection;
- (C) To minimize the impact of development on the water resources of the region; and
- (D) To incentivize the voluntary use of low impact development best practices that prevent unnecessary harm to the community by activities which may adversely affect water resources;
- (E) To encourage the construction of stormwater management drainage systems best practices above and beyond the minimum requirements of the State and other local jurisdictions which govern stormwater management;
- (F) To encourage the protection of natural conveyance systems and the use of them in ways which do not impair their beneficial functioning;
- (G) To reduce pollution intrusion in stormwater runoff that cause adverse impact to the quality of receiving waters;

- (H) To protect, restore, and maintain the chemical, physical and biological integrity of groundwater and stormwater;
- (I) To prevent damage from flooding, while recognizing the natural fluctuations in water levels are beneficial;
- (J) To provide for natural stormwater infiltration, settling of suspended solids and removal of pollutants from runoff prior to discharge into surface waters;
- (K) To prevent damage to hydrological and biological functions of wetlands;

ANALYSIS:

The proposed changes, as textually written, will enable the implementation of Voluntary Low Impact Development (LID) that further reduce stormwater pollution by maximizing open, green, and pervious space during development or redevelopment of a site. It will allow and provide a foundation for the adoption of a subsequent manual for Low Impact Development, which will include integrated management practices (best practices) as well as incentives and inducements that encourage the use of LID.

STAFF RECOMMENDATION:

Case T-33-2022 is recommended for approval.

TITLE XVII: LAND DEVELOPMENT CODE

CHAPTER 174: FLOODPLAIN AND STORMWATER MANAGEMENT

Stormwater Management and Conservation

Part 2: Drainage Plan

§ 174.068 DESIGN STANDARDS.

To ensure attainment of the objectives of this subchapter and that performance standards will be met, the design, construction, and maintenance of drainage systems shall be consistent with the following standards:

(A) Channeling stormwater runoff directly into water bodies shall be prohibited. Instead, runoff should be routed over a longer distance, through swales and other works designed to increase infiltration, allow suspended solids to settle, and remove pollutants;

(B) Natural watercourses shall not be dredged, cleared of vegetation, deepened, widened, straightened, stabilized or otherwise altered. Water shall be retained or detained before it enters any natural watercourse in order to preserve the natural hydrodynamics of the watercourse and to prevent siltation or other pollution;

(C) The area of land disturbed by development shall be as small as practicable. Those areas which are not to be disturbed shall be protected by an adequate barrier from construction activity. Whenever possible, natural vegetation shall be retained and protected;

(D) No grading, cutting or filling shall be commenced until erosion and sedimentation control structures have been installed between the disturbed area and water bodies, watercourses and wetlands;

(E) Land which has been cleared for development and upon which construction has not commenced shall be protected from erosion by appropriate techniques designed to revegetate the area;

(F) Sediment shall be retained on the site of the development;

(G) Wetlands and other water bodies shall not be used as primary sediment traps during development;

(H) Erosion and sedimentation facilities shall receive regular maintenance to ensure that they continue to function properly;

(I) Artificial watercourses shall be designed, considering soil type, so that the velocity of flow is low enough to prevent erosion;

(J) City and MTWCD maintained facilities are subject to the level of service and standards the city and MTWCD respectively have the ability to provide.

(K) Vegetated buffer strips shall be created or, where practicable, retained in their natural state along the banks of all watercourses, water bodies or wetlands. The width of the buffer shall be sufficient to prevent erosion, trap the sediment in overland runoff, provide access to the water body and allow for periodic flooding without damage to structures;

(L) Intermittent watercourses, such as swales, shall be vegetated;

(M) Retention and detention ponds shall be used to retain and detain the increased and accelerated runoff which the development generates. Water shall be released from detention ponds into watercourses or wetlands at a rate and in a manner approximating the natural flow which would have occurred before development;

(N) Although the use of wetlands for storing and purifying water is encouraged, care must be taken not to overload their capacity, thereby harming the wetlands and transitional vegetation;

(O) Dry retention facilities, a volume sufficient to retain the runoff from one-half ($\frac{1}{2}$) inch of rainfall of entire site (or one and one-half ($1\frac{1}{2}$) inches of runoff of impervious surfaces if greater) shall be provided;

(P) Wet detention facilities, no more than one-half ($\frac{1}{2}$) of this volume may be discharged in the first seventy-two (72) hours following a storm event; the total volume recovery occurring in fourteen (14) days;

(Q) Volume in the permanent pool (below maintained water level) in wet detention facilities must be sufficient to provide a residence time of at least fourteen (14) days. This volume may be determined as one and one-half ($1\frac{1}{2}$) inches over the impervious portion of the drainage basin, plus one-half ($\frac{1}{2}$) inch over the pervious portion of the basis;

(R) The inlet structure and outlet structure in wet detention facilities shall be located that contact between stormwater and littoral plantings is maximized. The inlet to the wet detention pond should be baffled to reduce turbulence, and the outlet from the wet detention pond shall be located as far as practicable from the inlet and should be constructed with skimmers to prevent the transmission of oils, grease and floating debris;

(S) Runoff from parking lots shall be treated to remove oil and sediment before it enters receiving waters;

(T) Detention and retention areas shall be designed when possible so that shorelines are sinuous rather than straight and so that the length of shoreline is increased, thus offering more space for the growth of littoral vegetation;

(U) The use of drainage facilities and vegetated buffer zones as open space, recreation and conservation areas shall be encouraged;

(V) Disturbed areas shall be stabilized and protected from erosion as soon as possible.

(W) Retention areas shall be designed as dry- bottom ponds, with the seasonal high groundwater table demonstrated to be at least one (1) foot below the finished pond bottom. Wet bottom ponds may be used provided that the entity responsible for maintenance shall not be the city.

(X) Detention reservoirs may be designed as wet-bottom or dry-bottom ponds. If designed as dry- bottom ponds, the seasonal high groundwater table shall be demonstrated to be at least one (1) foot below the finished pond bottom. If designed as a wet- bottomed pond, the depth shall be sufficient to limit growth of emergent plants to designated peripheral littoral zones, if applicable. Detention ponds shall be designed to remain hydraulically separate from the retention ponds so that backflow and mixing does not occur.

(Y) Dry retention systems shall be designed to recover one-half ($\frac{1}{2}$) of their volume in twenty-four (24) hours and the entire volume in seventy-two (72) hours. Wet detention systems shall recover their volumes in less than fourteen (14) days.

(Z) The City Engineer may, under certain extenuating circumstances, when there is no other alternative, waive the pond system requirement for wet detention systems.

(AA) ~~The >>A developer may elect to implement voluntary low impact development design standards for new development or redevelopment<< City Engineer may approve low impact development designed stormwater systems that vary from the design standards above provided the development is certified under the City of Palm Bay's Green Development Incentive Program >>~~in accordance with this section.

(1) Voluntary Low Impact Development (LID) is the voluntary implementation of designs and standards that further reduce stormwater pollution by maximizing open, green, and pervious space during development or redevelopment of a site. It is the developer's responsibility to comply with the requirements for stormwater management contained within Chapter 174 of the Palm Bay Code of Ordinances.

(2) The City Engineer, or designee, shall review and concur that the low impact development designs and standards are consistent with the City's Low Impact Development Manual.

(3) Voluntary LID designs and standards shall, at a minimum, be planned and designed to manage and capture stormwater runoff, to the maximum extent feasible, in a manner consistent with the integrated management practices (IMPs) as outlined in the City's Low Impact Development Manual.

(4) The developer shall adhere to the LID designs and standards as contained in the City's Low Impact Development Manual to be entitled to a density or intensity bonus, more floor space than allowed under the current or proposed future land use designation or zoning, greater height, a reduction in fees, credits, or granting of other incentives as authorized by City Council.<<



LAND DEVELOPMENT DIVISION

120 Malabar Road SE • Palm Bay, FL 32907 • Telephone: (321) 733-3042

Landdevelopment@palmbayflorida.org

CODE TEXTUAL AMENDMENT APPLICATION

This application must be deemed complete and legible, and must be returned by the first day of the month during division office hours, with all enclosures referred to herein, to the Land Development Division, Palm Bay, Florida, to be processed for consideration the following month at the earliest by the Planning and Zoning Board. The application will then be referred by the Planning and Zoning Board for study and recommendation to the City Council. You or your representative are required to attend the meeting(s) and will be notified by mail of the date and time of the meeting(s). The Planning and Zoning Board holds their regular meeting the first Wednesday of every month at 7:00 p.m. in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida, unless otherwise stated.

ORDINANCE SECTION(S) PROPOSED TO BE CHANGED:

Section 174.068(AA) and Sections 169.010 through 169.015

PROPOSED LANGUAGE (attach addendum if necessary):

See Attached

JUSTIFICATION FOR PROPOSED CHANGE (attach other documents if necessary)

To modify language to adopt a subsequent manual for Low Impact Developments in order to better assess future applications.

CITY OF PALM BAY, FLORIDA
CODE TEXTUAL AMENDMENT APPLICATION
PAGE 2 OF 2

THE APPLICATION FEE MUST BE SUBMITTED WITH APPLICATION TO PROCESS THIS REQUEST:

☐

***\$1,500.00 Application Fee. Make Check payable to "City of Palm Bay."**

I, the undersigned understand that this application must be complete and accurate before consideration by the Planning and Zoning Board/Local Planning Agency and certify that all the answers the questions in said application, and all data and matter attached to and made a part of said application are honest and true to the best of my knowledge and belief.

Under penalties of perjury, I declare that I have read the foregoing code textual amendment application and that the facts stated in it are true.

Signature of Applicant



Date

6/9/22

Printed Name of Applicant Alexandra Bernard

Full Address 120 Malabar Road SE, Palm Bay, FL 32907

Telephone (321) 733-3042

Email alexandra.bernard@palmbayflorida.org

PERSON TO BE NOTIFIED (If different from above):

Printed Name _____

Full Address _____

Telephone _____

Email _____

***NOTE: APPLICATION FEE IS NON-REFUNDABLE UPON PAYMENT TO THE CITY**

CITY OF PALM BAY, FLORIDA

PLANNING AND ZONING BOARD/
LOCAL PLANNING AGENCY
REGULAR MEETING 2022-08

Held on Wednesday, July 6, 2022, in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida.

This meeting was properly noticed pursuant to law; the minutes are on file in the Land Development Division, Palm Bay, Florida. The minutes are not a verbatim transcript but a brief summary of the discussions and actions taken at this meeting.

Chairperson Leeta Jordan called the meeting to order at approximately 6:00 p.m.

Mr. Donald Boerema led the Pledge of Allegiance to the Flag.

ROLL CALL:

CHAIRPERSON:	Leeta Jordan	Present
VICE CHAIRPERSON:	Philip Weinberg	Present
MEMBER:	Donald Boerema	Present
MEMBER:	Robert Good	Present
MEMBER:	Khalilah Maragh	Absent (Excused)
MEMBER:	Randall Olszewski	Present
MEMBER:	Rainer Warner	Absent (Excused)
NON-VOTING MEMBER:	David Karaffa	Present
	(School Board Appointee)	

The absences were excused for Ms. Maragh and Mr. Rainer.

CITY STAFF: Present were Ms. Alexandra Bernard, Growth Management Director; Mr. Jesse Anderson, Ph.D., Assistant Growth Management Director; Mr. Stephen White, Principal Planner; Ms. Tania Ramos, Senior Planner; Ms. Chandra Powell, Recording Secretary; Mr. Erich Messenger, Deputy City Attorney; Natalie Shaber, Engineer II.

ADOPTION OF MINUTES:

1. Regular Planning and Zoning Board/Local Planning Agency Meeting 2022-07; June 1, 2022.

Mr. Bill Battin (resident at Ocean Spray Street SW) inquired whether the 500-foot radius mailing was measured from the center or from the border of the properties to determine who received the meeting notices.

Ms. Susan Connolly (resident at Dixie Highway NE) wanted clarification that the CPP meeting would now occur earlier in the process and would include all applications that come before the board.

In response to the comments from the audience, Ms. Bernard restated the CPP process and that all applications would require a CPP meeting. She explained that standard 500-foot radius packages were prepared by Brevard County for a fee.

The floor was closed for public comments.

Motion to submit Case T-30-2022 to City Council for approval.

Motion by Mr. Olszewski, seconded by Mr. Weinberg. Motion carried with members voting as follows:

Aye: Jordan, Weinberg, Boerema, Good, Olszewski.

8. **T-33-2022 - Voluntary Low Impact Development - City of Palm Bay (Growth Management Department – Requested by Deputy Mayor Kenny Johnson) – A Textual Amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 174: Floodplain and Stormwater Management, Stormwater Management and Conservation, Part 2: Drainage Plan, Section 174.068(AA) Design Standards, and repealing Sections 169.010 through 169.015 in its entirety, to modify guidelines for voluntary low impact development**

Mr. Anderson presented the staff report for Case T-33-2022. Staff recommended Case T-33-2022 for approval.

The floor was opened for public comments, and there was no correspondence in the file.

Mr. Bill Battin (resident at Ocean Spray Street SW) questioned why the subject proposal was written as a voluntary system that developers could opt out of. The

language should be written as a requirement if the ordinance was considered necessary.

In response to the comments from the audience, Ms. Shaber stated that she was a big proponent of Low Impact Development (LID); however, LID was not a statutory requirement at this time. Implementation of some of the best practices would also be more difficult for some developers and engineers. State regulations were currently in place that addressed stormwater management requirements, but environmental needs were not being met. By introducing, encouraging, workshopping, educating, and providing incentives, a natural change would hopefully occur voluntarily. She commented that if the state made LID mandatory, the City would have an introductory in place.

Ms. Jordan asked if the City had a LID manual as it was referenced in the textual amendment. Ms. Shaber stated that a manual was being drafted. The manual and the proposed amendment would be approved concurrently by City Council.

The floor was closed for public comments.

Motion to submit Case T-33-2022 to City Council for approval.

Mr. Weinberg stated that LID was good for the City, and that the manual would hopefully standardize the proposal.

Motion by Mr. Weinberg, seconded by Mr. Mr. Olszewski. Motion carried with members voting as follows:

Aye: Jordan, Weinberg, Boerema, Good, Olszewski.

OTHER BUSINESS:

1. There was no other business discussed.

ADJOURNMENT:

The meeting was adjourned at approximately 8:49 p.m.

ORDINANCE 2022-85

AN ORDINANCE OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES, TITLE XVII, LAND DEVELOPMENT CODE, CHAPTER 169, LAND DEVELOPMENT CODE, SUBCHAPTER 'GREEN DEVELOPMENT INCENTIVE PROGRAM', BY REPEALING THE SUBCHAPTER IN ITS ENTIRETY; PROVIDING FOR THE REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR DELETION FROM THE CITY OF PALM BAY CODE OF ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. The City of Palm Bay Code of Ordinances, Title XVII, Land Development Code, Chapter 169, Land Development Code, Subchapter 'Green Development Incentive Program, is hereby repealed in its entirety.

~~"GREEN DEVELOPMENT INCENTIVE PROGRAM~~

~~§ 169.010 PURPOSE AND INTENT.~~

~~The Palm Bay Green Development Incentive Program is designed to promote sustainable development and design practices. Participation in the program is voluntary.~~

~~§ 169.011 DEFINITIONS.~~

~~**CITY.** The City of Palm Bay, Florida.~~

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

~~**PROGRAM.** The City of Palm Bay Green Building Incentive Program.~~

~~§ 169.012 STANDARDS.~~

~~(A) Certification under the program shall require that a participant's development obtain certification under one or more of the following standards:~~

~~(1) Certification under the Florida Green Development Certification Standard of the Florida Green Building Coalition;~~

~~(2) — Certification under the LEED Neighborhood Development Rating System administered by the Green Building Certification Institute;~~

~~(B) — The city will recognize certification upon receipt of a copy of the official certificate from the appropriate rating agency.~~

~~§ 169.013 SECONDARY STANDARDS.~~

~~(A) — Projects may also benefit from the incentives below (as specified in the incentives) by obtaining certification or complying with one or more of the following standards:~~

~~(1) — Certification under the Water Star Commercial Rating System by the St. Johns River Water Management District; and/or~~

~~(2) — Compliance with the Model Lighting Ordinance prepared by the International Dark Sky Association and Illuminating Engineering Society of North America.~~

~~(B) — The city will recognize certification upon receipt of a copy of the official certificate from the appropriate rating agency or in the case of the Model Lighting Ordinance, review of submitted documentation from the developer illustrating compliance.~~

~~§ 169.014 INCENTIVES.~~

~~The program shall provide the following incentives for participants:~~

~~(A) — *Submittal, Review, and Construction Phase.*~~

~~(1) — *Expedited Permitting.* Applications for site plan reviews shall be reviewed on an expedited basis by city staff. Expedited shall be prioritizing such review ahead of non-participant projects.~~

~~(2) — *Signage.* Participants shall be permitted to erect signage promoting their participation in the program as well as the certifying agency promotional materials on the site. Said signage shall not count toward the number of construction or future improvement signage normally permitted by the Sign Code.~~

~~(3) — *Web Page Promotion.* The participant's project shall be listed on the city's website under the program's heading for a minimum of one year. City staff will develop the promotion with input from the participant.~~

~~(4) — *Reduction in Development Permit Fees.* The calculation of site plan review fees, stormwater management review fees, tree clearing permit~~

~~fees, rezoning fees, conditional use fees, subdivision fees, and Planned Unit Development fees due shall include a twenty percent (20%) credit toward the fee(s) for compliance with the program primary standards and a ten percent (10%) credit for adherence to a secondary standard. Said fee reductions shall be effective upon submittal of proof of application for certification.~~

~~(B) — Upon completion.~~

~~(1) — Fee Refunds. The participant shall be entitled to a refund of fifty percent (50%) of the administrative site plan fee upon provision of the final certification from the appropriate rating agency.~~

~~(2) — Green Development Program Proclamation. The participant shall receive a proclamation from the city at a City Council meeting recognizing their achievement under the City of Palm Bay Green Development Incentive Program.~~

~~§ 169.015 ADMINISTRATION.~~

~~The program shall be administered by the Growth Management Department. Annually, subject to funding availability, the Growth Management Department shall sponsor or co-sponsor a Green Development Seminar/Workshop within Palm Bay. The purpose of this seminar shall be to promote green development practices within the city and to promote the Palm Bay Green Development Incentive Program."~~

SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed and all ordinances or parts of ordinances not in conflict herewith are hereby continued in full force and effect.

SECTION 3. It is the intention of the City Council of the City of Palm Bay that the City of Palm Bay Code of Ordinances be revised to delete the language as specified above.

SECTION 4. If any portion, clause, phrase, sentence or classification of this ordinance is held or declared to be either unconstitutional, invalid, inapplicable, inoperative or void, then such declaration shall not be construed to affect other portions

of the ordinance; it is hereby declared to be the express opinion of the City Council of the City of Palm Bay that any such unconstitutional, invalid, inapplicable, inoperative or void portion or portions of this ordinance did not induce its passage, and that without the inclusion of any such portion or portions of this ordinance, the City Council would have enacted the valid constitutional portions thereof.

SECTION 5. The provisions within this ordinance shall take effect immediately upon the enactment date.

Read in title only at Meeting 2022-XX, held on _____, 2022; and read in title only and duly enacted at Meeting 2022-XX, held on _____, 2022.

Rob Medina, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK

Reviewed by CAO: _____

Applicant: City of Palm Bay
Case: T-33-2022

cc: (date) Case File

Strikethrough words shall be deleted; highlighted words that will included will be placed in between two arrow symbols (>> <<). Deletions and additions constitute the proposed amendment. Words remaining are now in effect and remain unchanged.