



# DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

## ADVISORY BOARD MEMO

### Ordinance No. 16-21, Green Building Requirements

Meeting	File No.	Application Type
Site Plan Review and Appearance Board, April 28, 2021	2020-150-LDR	Land Development Regulations Amendment (City-initiated)

#### Request

Consideration of a City-initiated request to amend the Land Development Regulations (LDR) for the purpose of requiring that all new construction over 5,000 square feet, whether public or private, obtain Leadership in Energy and Environmental Design (LEED) Certification of minimum Gold level or the equivalent of a nationally recognized certification standard.

NOTE: The Site Plan Review and Appearance Board is not tasked with the review of amendments to the LDRs. However, when significant amendments are proposed that would have an impact on the Board's review, a presentation is made to the Board both for notification purposes and to receive comments.

#### Background Information

In 2019, the Green Implementation Advancement Board (GIAB) made a recommendation to the City Commission to amend the LDRs to require that all new construction, whether public or private, over 5,000 square feet obtain Leadership in Energy and Environmental Design (LEED) Certification of minimum Gold level or the equivalent of a nationally recognized certification standard. The City Commission agreed with the recommendation as a means of pursuing more sustainable and efficient green building requirements for both private and public development within the city.

The LDRs currently require LEED certification of a silver level or higher, or equivalent certification, for new construction consisting of 50,000sf or more within the Central Business District (CBD). In the Mixed Residential, Office, and Commercial (MROC) zoning district, green building certification, at a minimum of silver level, is available to select as a development bonus when a proposed self-service storage facility exceeds the permitted floor area limit.

A review of permits from 2018 – 2020 indicated that approximately 50 permits were issued over the three years for new development projects or additions involving 5,000 square feet or more. Most of these permits were for single-family residences and commercial construction projects.

The following timeline highlights the City's support for green initiatives.

- 2009: Community organized Green Task Force report submitted to the City Commission.  
Green Task Force established by City Commission.  
City established its 1st Sustainability Officer position in Public Works Dept.
- 2010: Green Task Force evolved to Green Implementation Advancement Board (GIAB)
- 2015: CBD regulations require new construction 50,000sf or more to obtain United States Green Building Council (USGBC) Silver level or higher, or equivalent certification.
- 2016: City of Delray Beach certified as a Silver Level Green Local Government by the Florida Green Building Coalition.
- 2018: Office of Sustainability and Resilience (OSAR) established.
- 2019: GIAB recommended requirement for all new development 5,000+sf to obtain LEED Certification of minimum Gold Level or equivalent.

2020: Always Delray Comprehensive Plan adopted, includes Conservation, Sustainability, and Resiliency (CSR) Element; Performance Measure: Increase in the number of green buildings in the city.

### Description of Proposal

The proposed amendments create Article 7.11, Resilient Design and Construction Practices and Section 7.11.1, Green Building Regulations intended to *“promote sustainable development within the City of Delray Beach by mandating efficient design and construction practices for all new construction and addition(s) which propose to build 5,000 square feet gross floor area or more in one or more buildings on a single parcel or as a part of a unified development.”* The new regulations require the following:

- 5,000 square feet gross floor area or more in one or more buildings on a single parcel or as part of a unified development (both public and private), shall be at a minimum certified as Gold by the USGBC LEED standards or an equivalent certification approved by the City.
- Qualified City Development. Contracts for the design and construction shall include the requirement to appoint a qualified person to serve as the LEED facilitator and administrator who shall be responsible for submitting the project for review and certification to USGBC. The LEED facilitator and administrator must be a LEED accredited professional or equivalent.
- Qualified Public and Private Development. At the time of Building Permit application, the following shall be included:
  - Proof of registration with the USGBC, or equivalent agency;
  - A signed and sealed affidavit from a LEED Accredited Professional, or equivalent designation, stating that the proposed Building is designed to achieve the required certification; and
  - A LEED Scorecard, or equivalent document, identifying anticipated credits to be achieved.
- Prior to the issuance of a Certificate of Occupancy, proof of complete required LEED Gold level certification, or equivalent certification submitted or a bond posted with the amount dependent on the square footage, i.e. 3% of the total cost of construction for building(s) 5,000 to 25,000 square feet.
- Forfeiture of bond. The bond required shall be forfeited to the City in the event that the building does not meet the requirements for LEED Gold certification or equivalent certification within one year of the City's issuance of the Certificate of Occupancy for the building.
  - If required certification is not achieved, but a majority of the credits have been verified, the owner shall forfeit a portion of the bond based on any outstanding credits.
  - If the amount to be forfeited is greater than 50 percent of the full bond amount, the bond shall be forfeited in its entirety. Funds that become available to the City from the forfeiture of the bond shall be placed in the Sustainability and Resilience Fund.
- Draft rating checklist from a Green Building certification entity must be included with all development applications.
- New Definition: SUSTAINABILITY AND RESILIENCE FUND.
- Re-Evaluation: The provisions will be re-evaluated within three years of adoption for their effectiveness in achieving the desired result of sustainable development throughout the City.

### Review

Pursuant to **LDR Section 1.1.6(A), Amendments**, the text of these Land Development Regulations may from time to time be amended, changed, supplemented, or repealed. No such action however, shall be taken until a recommendation is obtained from the Planning and Zoning Board and until a public hearing has been held by the City Commission. Any such change shall be made by ordinance, pursuant to procedures found in LDR Section 2.4.5(M).

The Planning and Zoning Board is scheduled to review the proposed amendments at its meeting of May 17, 2021. The Board's recommendation will be provided to the City Commission, where the amendments will be reviewed at two public meetings. The anticipated review dates are June 8, 2021 and July 6, 2021 (Public Hearing).

Pursuant to **LDR Section 2.4.5(M)(1)**, *amendments to the Land Development Regulations may be initiated by the City Commission, Planning and Zoning Board or City Administration; or an individual.*

The proposed amendment is City-initiated based on direction by the City Commission at its meeting of December 10, 2019.

Pursuant to **LDR Section 2.4.5(M)(5), Findings**, *in addition to LDR Section 1.1.6(A), the City Commission must make a finding that the text amendment is consistent with the Comprehensive Plan.*

The following Goals, Objectives, and Policies from the Always Delray Comprehensive Plan support the proposed LDR amendments.

### **Housing Element**

Policy HOU 4.2.5: *Implement green standards and regulations to require that housing construction and rehabilitation provide durable, adaptable, healthy and energy-efficient homes. [Complete by 2022]*

### **Capital Improvements Element**

Policy CIE 3.1.6: *Require green building certification for all new public buildings.*

### **Conservation, Sustainability and Resiliency Element**

Policy CSR 5.1.6: *Develop sustainable construction standards for City owned buildings and major renovations consistent with Section 255.2575, Florida Statutes, which requires energy efficient and sustainable buildings. Require public infrastructure projects incorporate elements of efficiency for energy and water consumption in new or upgraded infrastructure investments and develop energy efficiency criteria to include in City procurements and capital projects. In the capital improvements planning process, consider the most energy efficient technologies available.*

**Goal CSR 5, Energy Efficiency and Diverse Energy Mix**, identifies an increase in the number of green buildings in Delray Beach as a performance measure regarding the success in addressing the Objectives and Policies of the Goal.

In addition to the above, many Policies of the Always Delray Comprehensive Plan also support and encourage green building and sustainability initiatives when making improvements and repairs to buildings, through retrofitting of buildings.

### **Review By Others**

The **Downtown Development Authority (DDA)** considered the proposed LDR amendments at its meeting of April 12, 2021; the amendments were not supported as proposed.

The **Pineapple Grove Main Street (PGMS)** group considered the proposed LDR amendments at its meeting April 14, 2021; the amendments were supported as proposed.

The proposed LDR Amendments are anticipated to be reviewed by the following Boards at the meeting dates listed below:

- Historic Preservation Board, May 5, 2021
- Planning and Zoning Board, May 17, 2021
- City Commission, June 8, 2021 and July 6, 2021