



DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

HISTORIC PRESERVATION BOARD

Ordinance No. 16-21, Green Building Requirements

Meeting Date	File No.	Application Type
May 5, 2021	2020-150-LDR	Land Development Regulations Amendment (City-initiated)

Request

Provide a recommendation to the Planning and Zoning Board on Ordinance No. 16-21, 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.

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, achieving a minimum of LEED silver level, makes available a development bonus for a proposed self-service storage facility that 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.
- 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; and Performance Measure: Increase in the number of green buildings in the city.

Staff Contact:

John Kent Edwards, Sustainability Officer
Edwards.J@mydelraybeach.com

Planner:

Amy Alvarez, Principal Planner
alvarez@mydelraybeach.com

Attachments:

- Draft Ordinance No. 16-21
- GIAB Letter 2019

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 entity;
 - 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 less than 50 percent of the required points for certification are obtained, 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 during site plan review.
- 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 Process

The review process for projects requiring green building certification will not be significantly impacted. Applications for projects that require review and approval by a Board or the City Commission prior to the submittal of a building permit will be required to include a draft rating checklist from a green building certification entity. While the draft rating checklist will not be approved by the acting body, its purpose is to illustrate the intended sustainable improvements to be included as part of the development.

The building permit application will require more formalized information such as proof of registration with the certifying entity, an affidavit indicating that the building is designed to meet the required certification, and the scorecard identifying the anticipated credits to be achieved. A qualified City Staff member will be charged with reviewing the documentation upon submittal, reviewing the certification prior to the issuance of the CO, and monitoring the bond requirements, if applicable.

Other Florida Locations: Requirements and Benefits

The City's Sustainability Office conducted a review of other Florida governmental entities and found that at least 34 of them either require or provide incentives for green building certification. Some municipalities, such as Miami Beach and Coral Gables, require that all new construction of a minimum size obtain a green building certification, while others encourage green building certification by providing benefits such as height, density, or floor area ratio (FAR) bonuses. Many municipalities have implemented an expedited permit review process for projects anticipating a green building certification.

The City of Tampa has adopted a permit fee rebate program that works as a grant, whereby the City will rebate 50% of the building permit fees for single-family residences that obtain a green building certification, and from 20% to 80% of building permit fees for commercial or multi-family residential development, depending on the certification level. The program is budgeted each year for a certain amount, and refunds are available on a first come first served basis.

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).

Amendments to the Land Development Regulations

Pursuant to **LDR Section 2.4.5(M)(1), Rule**, *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, Goal HOU 4, Innovation and Diversity of Housing Type

Objective HOU 4.2. Housing Sustainability: *Promote healthy, safe, and environmentally sustainable housing that is adaptable to changing conditions and diverse households.*

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, Goal CIE 3, Sustainability and Resiliency

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

Conservation, Sustainability and Resiliency Element, Goal CSR 5, Energy Efficiency and Diverse Energy Mix

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.*

Performance Measures: Success in addressing the Objectives and Policies of each Goal in the Comprehensive Plan is measured utilizing performance indicators.

Goal CSR 5, Energy Efficiency and Diverse Energy Mix: *Reduction in residential, commercial and municipal electricity use; Increase in the number of green buildings in the city; Increases in energy efficiency municipal retrofit projects; and, Increases in City and communitywide renewable energy projects.*

Goal CSR 7, Sustainable Practices that Increase the Triple Bottom Line: *Track and increase the number of sustainability policies or regulations adopted including policies incorporated into procurement guidelines; Promote the green economy by increasing sustainability-related business within the city.*

The proposed amendments not only forward the identified Policies from the Comprehensive Plan but provide a threshold whereby a majority of new construction in Delray Beach will be required to obtain a certain level of green building certification. The **Data, Inventory, and Analysis (DIA) of the CSR Element** states, “*Delray Beach should evaluate the success of current green building practices and the Central Business District ...then establish more rigorous standards for new City facilities and commercial development projects beyond the Central Business District Zone. The City should extend its sustainable building practices to all City facilities either through requiring participation in a prominent national rating system, or by designing their own menu of requirements, by borrowing techniques from various sustainable building codes. Adopting a green certification requirement for City owned buildings and facilities is a nationally accepted practice.*” As a result, there will be: more green buildings in Delray Beach; healthier and more environmentally sensitive housing and employment options; and a locally supported and growing green economy.

Florida Statutes Section 255.2575, Energy -efficient and sustainable buildings, already require that “*all county, municipal, school district, water management district, state university, Florida College System institution, and state court buildings shall be constructed to comply with a sustainable building rating system or a national model green building code. This section applies to all county, municipal, school district, water management district, state university, Florida College System institution, and state court buildings the architectural plans of which are commenced after July 1, 2008.*” The subject amendments increase the already required green building certification for municipal buildings. Some entities, including the State of Florida, require that new public development obtain a specific type or level of green building certification above the minimum green building certification required by the State.

Advantages of Green Building Requirements

Many programs offer benefits or bonuses to developers and property owners as an incentive to achieve a green building certification while providing a tangible return to offset the additional perceived cost upon improvement. However, studies have shown that there are immediate benefits to green building construction and improvements such as increased property value and reduced day-to-day costs, such as decreased water and electrical usage. The overall added cost to obtain green building certification can be zero, as builders and developers are becoming more familiar with sustainable construction. In instances where the green building certification adds cost, often this cost is returned within a few years, at which point the green building is actually less costly than the conventional. In addition, the improved air quality can reduce health issues and provide a generally overall healthier living or working environment. With the growing climate crisis, requiring green building certification significantly benefits the natural environment by using less water, energy or natural resources and reducing landfill waste. The adoption of the subject amendments would move the City toward a “green” economy, which is referenced in the CSR DIA.

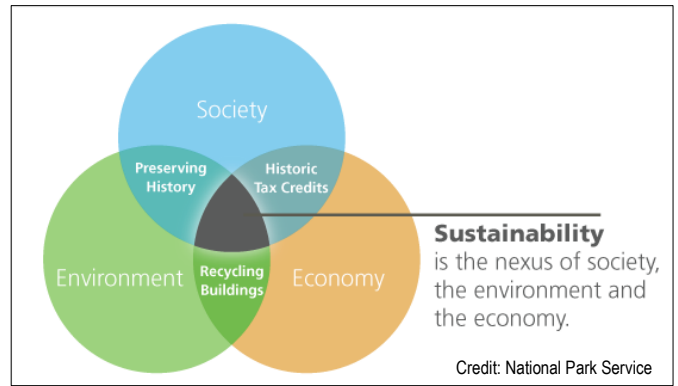
Historic Preservation Element, Goal HPE 3, Education and Public Awareness

Policy HPE 3.1.1 *Develop an education and outreach program about the benefits of owning a historic site and listing an eligible resource to the Local or National Register of Historic Places; this outreach shall include information about the economic advantages inherent in the rehabilitation of historic buildings and that historic preservation is a form of sustainable development.*

Given the square footage threshold, the proposed amendments will not be applicable to a large amount of existing historic structures. However, it is important to recognize that preserving a building is considered “the ultimate recycling project” as preservation and green building initiatives have overlapping goals, and the larger community benefits from each of these important movements.

Historic buildings were traditionally designed with many sustainable features that responded to climate and site. When effectively restored and reused, these historic features can bring about substantial energy savings. Today's sustainable technology can supplement inherent sustainable features without compromising unique historic character. Many structures across the county, varying in size and use-type, have achieved a green building certification.

A report produced by the Preservation Green Lab of the National Trust for Historic Preservation, *The Greenest Building: Quantifying the Environmental Value of Building Reuse*, provides an analysis of the potential environmental benefit of building reuse. The study concludes that, when comparing buildings of equivalent size and function, building reuse almost always offers environmental savings over demolition and new construction. The Technical Preservation Services division of the National Park Service has a "Sustainability" section with many resources available to assist professionals and property owners in determining the appropriate manner to preserve a historic structure while seeking a sustainable solution.



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 DDA expressed concerns regarding the square footage change from 50,000sf to 5,000 in the CBD; the additional requirements could deter development due to additional costs incurred; the requirements should be phased; and, the need for more stakeholder input.

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

The **Site Plan Review and Appearance Board (SPRAB)** reviewed the proposed LDR amendments at its meeting of April 28, 2021; the Board's support will be reported at the HPB meeting.

Additional review of the subject amendments is anticipated at the meeting dates listed below:

- Planning and Zoning Board, May 17, 2021
- City Commission, June 8, 2021 (First Reading) and July 6, 2021 (Second Reading/Adoption)

Alternative Actions

- Recommend **approval** to the Planning and Zoning Board of **Ordinance No. 16-21**, amending the Land Development Regulations 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, by finding that the amendment and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in Land Development Regulations.
- Recommend **approval** to the Planning and Zoning Board of **Ordinance No. 16-21, as amended**, amending the Land Development Regulations 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, by finding that the amendment as amended and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in Land Development Regulations.
- Recommend **denial** to the Planning and Zoning Board of **Ordinance No. 16-21**, amending the Land Development Regulations 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, by finding that the amendment and approval thereof is not consistent with the Comprehensive Plan and does not meet the criteria set forth in Land Development Regulations.