



## Legislation Text

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**TO: Mayor and Commissioners**  
**FROM: Kent Edwards, Sustainability Officer**  
**THROUGH: Jennifer Alvarez, Interim City Manager**  
**DATE: July 6, 2021**

ORDINANCE NO. 16-21: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF DELRAY BEACH CODE OF ORDINANCES, BY AMENDING CHAPTER 2 "ADMINISTRATIVE PROVISIONS", ARTICLE 2.4 "GENERAL PROCEDURES," SECTION 2.4.3 "SUBMISSION REQUIREMENTS", SUBSECTION (A), "STANDARD APPLICATION ITEMS" AND SUBSECTION (B), "STANDARD PLAN ITEMS", TO ADD REQUIRED APPLICATION ITEMS AND MAKE GRAMMATICAL CHANGES TO PLAN ITEMS; SECTION 2.4.6, "PROCEDURES FOR OBTAINING PERMITS AND APPROVALS", SUBSECTION (B), "BUILDING PERMITS", TO SPECIFY THE REQUIREMENT FOR GREEN BUILDING CERTIFICATION; BY AMENDING CHAPTER 3, "PERFORMANCE STANDARDS," ARTICLE 3.2, "PERFORMANCE STANDARDS," SECTION 3.2.3, "STANDARDS FOR SITE PLAN AND/OR PLAT ACTIONS", TO REQUIRE LEED CERTIFICATION FOR NEW CONSTRUCTION OR ADDITIONS OVER 5,000 SQUARE FEET; BY AMENDING CHAPTER 4, "ZONING REGULATIONS", ARTICLE 4.4, "BASE ZONING DISTRICT", SECTION 4.4.13, "CENTRAL BUSINESS (CBD) DISTRICT", SUBSECTION (F), "ARCHITECTURAL STANDARDS", TO AMEND URBAN HEAT ISLAND REQUIREMENTS AND GREEN BUILDING PRACTICES AND REFER TO ARTICLE 7.11 FOR REGULATIONS; BY AMENDING CHAPTER 7, "BUILDING REGULATIONS," BY ENACTING A NEW ARTICLE 7.11, "RESILIENT DESIGN AND CONSTRUCTION PRACTICES", TO OUTLINE CERTIFICATION REQUIREMENTS FOR NEW PRIVATE AND PUBLIC DEVELOPMENT, PROVIDING APPLICATION PROCEDURES, BOND REQUIREMENTS, AND ESTABLISHING A GREEN BUILDING FUND, A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AUTHORITY TO CODIFY, AND PROVIDING AN EFFECTIVE DATE (FIRST READING).

**Recommended Action:**

Motion to approve Ordinance No. 16-21 on First Reading to amend the Land Development Regulations for the purpose of requiring that all new construction over 5000 square feet, whether public or private, obtain Leadership in Energy and Environmental Design certification of minimum Gold level or equivalent.

**Background:**

In 2009, a group of concerned citizens joined together, researching and writing the Green Task Force report, which was submitted to the City Commission. This report included recommendations that would improve the City's level of sustainability and resilience. Implementing a green building ordinance was one of the recommendations.

In 2015, Ordinance 02-15 was passed, implementing green building requirements in the Central

Business District only. The ordinance applied to construction of buildings 50,000 square feet or more, and required achieving a Leadership in Energy and Environmental Design (LEED) Silver certification or equivalent.

In November 2019, the Green Implementation Advancement Board (GIAB) made a recommendation to the City Commission that the green building requirements be revised. The GIAB recommended that regulations apply throughout the city, for buildings of 5000 square feet or more to achieve a LEED Gold level certification or equivalent. At the December 10, 2019, meeting the City Commission unanimously agreed, giving direction that a green building ordinance be developed as recommended by the GIAB.

The proposed ordinance would broaden the application of green building requirements within the City, with some of the major components of the ordinance including:

- a. The requirements would apply to any qualified construction (residential, commercial, or public) in all parts of the City. The current ordinance only applies to the Central Business District.
- b. The threshold for size of the construction would be reduced to 5000 square feet. The threshold in current ordinance is for construction of 50,000 square feet.
- c. The certification level in the proposed ordinance is LEED Gold or equivalent, compared to LEED Silver or equivalent in the current ordinance.
- d. Financial assurance is required at the time of request for Certificate of Occupancy, unless the green building certification has been obtained. The bond will be released if the required green building certification is obtained within one year of Certificate of Occupancy. If required certification is not received, a portion or the whole bond would be forfeited, depending on the points toward certification that are obtained.

Many other municipalities have adopted green building ordinances, but the design of the ordinances varies greatly. The large majority of ordinances are voluntary in nature, requiring documentation that green features were considered in the design, or simply recommending that green features be incorporated. Many ordinances offer an incentive for attaining green building certification. The incentives offered include expedited permitting, fee refunds, site development or zoning bonuses, and others. The ordinance which is most similar in nature to the proposed, is in the City of Miami Beach, with a threshold of 7000 - 10,000 square feet, and a LEED Gold or equivalent certification required in order to obtain full bond or fee refund. Other similar ordinances exist in the City of Coconut Creek with a 5000 square foot threshold, and LEED certified level requirement; and the City of Coral Gables with a 20,000 square foot threshold, and LEED Silver level requirement.

The draft ordinance was presented to several City Boards, and though generally supported, there were several modifications that were discussed or recommended. A description of Board comments is included in the attached Planning and Zoning Board Staff Report, from their May 17, 2021, meeting.

One main concern, additional cost, has been raised consistently as the draft ordinance was reviewed and discussed. Many studies have compared the costs for green certified buildings versus that of conventional non-green buildings. The results of these studies vary broadly, but some general trends are seen. The difference in cost between green buildings versus conventional buildings has

decreased over the past decade, with some instances where costs are the same. This is most likely due to the construction industry becoming more efficient at including green features into designs, and sustainable materials becoming more widely available and competitively priced. Higher levels of green building certification are associated with a larger difference in cost, compared to conventional construction. Though in some cases there is an increased cost associated with green building construction, the operation and maintenance of green buildings is consistently less expensive. The overall lifecycle cost for green buildings is, over the long-term, less than the cost for conventional construction.

On May 17, 2021, the Planning and Zoning Board voted 7 to 0 to approve the ordinance with amendments. Recommended amendments included raising the threshold to 15,000 square feet, using incentives to encourage other new construction to obtain green building certification, and tiering certification levels.

The attached Planning and Zoning Board Staff report (from the meeting of May 17, 2021) further outlines and analyzes the proposed amendments. The proposed ordinance does not include revisions to address comments or recommendations made by the Boards.

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 and furthers the Goals, Objectives and Policies (GOPs) of the Comprehensive Plan.*

A complete review of the applicable Goals, Objectives, and Policies from the Always Delray Comprehensive Plan are provided in the attached Planning and Zoning Board Staff Report. .

**City Attorney Review:**

Approved as to form and legal sufficiency.

**Funding Source/Financial Impact:**

Implementation of the green building requirements will require that the Development Services Department create a new position for a qualified professional with experience in the application of green building practices, knowledge of different green building organizations and certifications, and general building plan review. The primary responsibility would be to track projects that require green building certification, which will require, at a minimum, that the staff person review the application upon submittal and prior to the issuance of the Certificate of Occupancy, as well as monitor the bond requirements, as applicable. The position would also likely serve as the City's Flood Plain Manager. Given the minimum education and experience qualifications that will be required, the position is anticipated to demand a pay grade similar to that of a Senior Planner (\$59,716.80 - \$95,555.20) or Principal Planner (\$67,100.80 - \$107,369.60).

**Timing of Request:**

None