

ORDINANCE 2024-24

AN ORDINANCE OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, PROVIDING FOR A TEMPORARY MORATORIUM TO PROHIBIT THE ACCEPTANCE, PROCESSING, OR CONSIDERATION OF APPLICATIONS FOR A PERMIT OR DEVELOPMENT ORDER FOR STAND-ALONE AUTOMATED AND SELF-SERVICE CAR WASHES; ADOPTING FINDINGS OF FACT; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, as provided in Section 2(b), Article VIII, Constitution of the State of Florida, and Section 166.021(1), Florida Statutes, the City of Palm Bay, Florida, a municipal corporation, enjoys all governmental, corporate, and proprietary powers necessary to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except as expressly prohibited by law, and

WHEREAS, as provided in Section 166.021(3), Florida Statutes, the governing body of each municipality in the state has the power to enact legislation concerning any subject matter upon which the state legislature may act, except when expressly prohibited by law, and

WHEREAS, less than fifteen (15%) percent of the City's total land area is zoned for commercial use, and

WHEREAS, City's limited commercial areas results in a deficiency of vacant, non- residentially zoned land that is needed to meet the commercial demands of current and future residents resulting in residents often having to travel to neighboring municipalities for employment, goods, and services, and

WHEREAS, to prevent the proliferation of car wash facilities consuming essential commercial property, too fast, and in close proximity to one another, it is necessary to study the issue to determine whether limits to the numbers and locations that are appropriate for the City in the best interest of its residents who reside near these areas to be afforded better protection from the development of these properties, and

WHEREAS, the City of Palm Bay has comprehensively evaluated and updated its comprehensive plan providing land use and population projections through 2045. The City is currently updating the existing Land Development Code (LDC) in accordance with Section 163.3202, Florida Statutes, which states that within one (1) year of the comprehensive plan update, the municipality “shall adopt or amend and enforce land development regulations that are consistent with and implement their adopted comprehensive plan”, and

WHEREAS, car washes are permitted as a Conditional Use pursuant to Section 185.087, Palm Bay Code of Ordinances, which requires additional review by the City Council, and

WHEREAS, the intent of a Conditional Use is the allowance of “certain land uses, due to their unique functional characteristics and the potentiality for their incompatibility with adjoining land uses, require special consideration on an individual basis of their suitability for location and development within particular zoning districts. Such uses have been designated as conditional uses within appropriate zoning district classifications set forth in §185.030 et seq. and §185.060 et seq. It is the intent of this subchapter that such uses may be permitted in the zoning district classifications only after affirmative findings that they can be developed at particular locations in a

compatible manner”, and

WHEREAS, the City of Palm Bay regulates the use of land through its Comprehensive Plan and its Land Development Code as authorized by Section 163.3164, Florida Statutes, and

WHEREAS, the City Council desires for its Staff to have sufficient time to review and make recommendations for the enactment of Land Development Code update and amendments, and

WHEREAS, the City is seeking a temporary moratorium while staff is completing a comprehensive review of its land development regulations to implement the goals, objectives, and policies of the Palm Bay 2045 Comprehensive Plan. This moratorium will allow staff to determine whether new or amended Land Development Codes are needed pertaining to stand-alone car washes and to prepare any needed regulations. The establishment of a temporary moratorium suspends the development orders and development permits associated with the approval of new applications or applications that have not been advertised for the Conditional Use (CU) of Car Wash Facilities, and

WHEREAS, the City Council of the City of Palm Bay finds it is in the best interest of the citizens of the City to place a temporary moratorium City-wide to preserve the quality of life and preserve property values so that new regulations regarding Conditional Uses can be implemented, and

WHEREAS, City Council of the City of Palm Bay has authority in accordance with the Florida Constitution, and Chapters 163 and 125, Florida Statutes, to enact regulations in the interest of the public health, safety and welfare of its citizens.

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

SECTION 1. The foregoing “Whereas” clauses are hereby ratified and affirmed as being true and correct and are incorporated herein by reference.

SECTION 2. No applications for the issuance of Development Permits, Building Permits, Site Plan Approvals, and any other official action by the City for the development of “stand-alone car washes” within the City of Palm Bay shall be accepted, processed, considered, or issued by the City during the period that the moratorium is in effect.

SECTION 3. The following shall be exempt from the provisions of this Ordinance:

(A) Car washes that are ancillary facilities to convenience stores or gas stations; or

(B) Temporary car washes, “temporary car washes” are defined as fundraising activities where volunteers wash vehicles by hand and the duration of the event is limited to no more than three (3) consecutive days.

(C) Permits to repair or rehabilitate an existing stand-alone car wash so long as the permit does not involve an expansion of the building area.

SECTION 4. The moratorium imposed by this Ordinance shall be effective for a period of six (6) months from enactment, unless rescinded sooner.

SECTION 5. If any section, subsection, sentence, clause, phrase or portion of this Ordinance, or application hereof, is held or declared to be unconstitutional, inoperative or void, such holding of invalidity shall not affect the remaining portions of

this Ordinance and shall be construed to have been the legislative intent to pass this Ordinance without such unconstitutional, invalid or inoperative parts therein, and the remainder of this Ordinance, after the exclusion of such part or parts, shall be deemed to be held valid as if this Ordinance had been adopted without such unconstitutional, invalid or inoperative part herein and if this Ordinance or any provision thereof, shall be held inapplicable to any person, group of persons, property, kind of property, circumstances, or set of circumstances, such holding shall not affect the application thereof to any other person, property or circumstances.

SECTION 6. The provisions within this ordinance shall take effect immediately upon the enactment date.

Read in title only at Meeting 2024-XX, held on _____, 2024; and read in title only and duly enacted at Meeting 2024-XX, held on _____, 2024.

Rob Medina, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK

Reviewed by CAO: _____

Applicant: City of Palm Bay
Case: MOR24-00002

cc: Applicant
Case File