

ORDINANCE 2024-23

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 TO ALLOW SELF-STORAGE FACILITIES; 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, the City has experienced a proliferation of self-storage facilities with approximately sixteen (16) self-storage facilities currently operating within the City, and another six (6) proposed facilities in various stages of permitting and construction, 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, the City has comprehensively evaluated and updated its comprehensive plan providing land use and population projections through 2045; and

WHEREAS, the City is currently working to amend the Land Development Code (LDC) to implement the policies and objectives of the Comprehensive Plan in accordance with Section 163.3202, Florida Statutes, and

WHEREAS, Objective FLU-1.3, City of Palm Bay Comprehensive Plan, states the City is to “promote the development of sustainable neighborhoods that provide a diverse range of housing options, are supported by public facilities, and maintain access to commercial areas for goods, services, and employment”, and

WHEREAS, Policy FLU-1.4C, Comprehensive Plan, requires the City to “amend the LDC to encourage the development of neighborhood-scale commercial uses within, or within close proximity to, residential areas”, and

WHEREAS, Self-Storage Facilities are allowed as a Conditional Use pursuant to Section 185.088, 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, a temporary moratorium is a recognized important land-use planning tool to preserve the status quo during the planning process and ensure the community's problems are not exacerbated during the time it takes to formulate a regulatory scheme, and

WHEREAS, the City Council of the City of Palm Bay hereby finds that the temporary moratorium imposed by this ordinance is being imposed for a reasonable duration intended to give the City the time reasonably necessary to investigate the impacts of self-storage facilities in commercial zoning, and if necessary, to promulgate reasonable regulations relating to such uses, and

WHEREAS, pursuant to the pending legislation doctrine set forth in *Smith v. City of Clearwater*, 383 So. 2d 681 (Fla. 2d DCA 1980), the City declares and implements the pending ordinance doctrine concerning zoning and development regulations governing self-storage facilities, and

WHEREAS, the Palm Bay City Council hereby finds and declares that this ordinance is in the best interest of the public health, safety, and welfare.

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. The City of Palm Bay hereby prohibits the acceptance, processing and consideration of all Conditional Use applications, Development Permits, Building Permits, Site Plan Approvals, and any other official action by the City for the development of a Self-Storage Facility within the City of Palm Bay for Self-Storage Facilities City-wide and a moratorium is hereby declared.

SECTION 3. The moratorium imposed by this Ordinance shall be effective for a period of six (6) months from enactment, unless rescinded sooner.

SECTION 4. The following shall be exempt from the provisions of this Ordinance:

- (A) Any application for a Development Permit, Building Permit, Site Plan Approval or other official action by the City for the purpose of repair or rehabilitation of an existing Self-Storage Facility; or
- (B) The repair, or rehabilitation of existing Self-Storage facilities.

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: MOR24-00001

cc: Applicant
Case File