

2. Ordinance 2024-23, 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 (Case MOR24-00001, City of Palm Bay), first reading. (Councilman Johnson)



## MEMORANDUM

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Suzanne Sherman, City Manager

**THRU:** Lisa Frazier, Growth Management Director

**DATE:** May 2, 2024

**RE:** Ordinance 2024-23, 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 (Case MOR24-00001, City of Palm Bay), first reading. (Councilman Johnson)

### SUMMARY:

The City is seeking a six (6) month temporary moratorium. 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 Self-Storage Facilities.

Presently there are approximately sixteen (16) self-storage facilities in or near the City of Palm Bay, and approximately six (6) new self-storage facilities currently under review.

### REQUESTING DEPARTMENTS:

Growth Management

### STAFF RECOMMENDATION:

Motion to approve.

### Planning & Zoning Board Recommendation:

Planning and Zoning Board minutes are not fully transcribed at this time; the following is an excerpt:

**Motion** by Ms. Jordan, **Seconded** by Mr. Boerema to submit Case MOR24-00001 to the City Council for approval.

**Result:** Carried 5 to 0

**Aye:** Olszewski, Good, Boerema, Jordan, Warner

**Nay:** None

**Abstain:** None

**ATTACHMENTS:**

1. MOR24-00001 Staff Report
2. MOR24-00001 Application
3. MOR24-00001 Acknowledgement
4. MOR24-00001 Legal Ad
5. MOR24-00001 Ordinance



# STAFF REPORT

## LAND DEVELOPMENT DIVISION

120 Malabar Road SE • Palm Bay, FL 32907 • Telephone: 321-733-3042

[landdevelopmentweb@palmabayflorida.org](mailto:landdevelopmentweb@palmabayflorida.org)

### Prepared by

Lisa Frazier, AICP, Growth Management Director

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**CASE NUMBER**

MOR24-00001 Self-Storage Facilities

**PLANNING & ZONING BOARD HEARING DATE**

May 1, 2024

**PROPERTY OWNER & APPLICANT**

City of Palm Bay (Growth Management Department)

**PROPERTY LOCATION/ADDRESS**

Citywide

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**SUMMARY OF REQUEST**

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.

**Existing Zoning** N/A

**Existing Land Use** N/A

**Site Improvements** N/A

**Site Acreage** N/A

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**SURROUNDING ZONING & USE OF LAND**

**North** N/A

**East** N/A

**South** N/A

**West** N/A

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**BACKGROUND:**

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 Self-Storage Facilities.

**ANALYSIS:**

The City of Palm Bay has comprehensively evaluated and updated its comprehensive plan providing land use and population projections through 2045. The city has realized significant growth since the Comprehensive Plan was last amended in 2000 and data and analysis from the updated plan suggested that approximately 64% of the City of Palm Bay has land use allowing residential and multi-family housing, while only approximately 9% of the City of Palm Bay has commercial and industrial land use (not including approximately 12% of mixed-use categories). The remainder of the categories include approximately 16% public use. Therefore, level of service (LOS) standards such as police, fire, transportation capacity, drainage and infrastructure should be considered when making residential development decisions. The explosive population growth and the desire to increase or maintain commercial and industrial uses within the City of Palm Bay were considered during the update of the comprehensive plan. Consequently, the City is currently updating the existing Land Development Code (LDC) in accordance with Florida Statute 163.3202 which states that within 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.” This process is scheduled to be completed no later than September 30, 2024.

The City of Palm Bay has undertaken a complete review of its Comprehensive Plan and is currently updating the land use regulations. 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 updated conditions for approval.

Additionally, the Growing Smart User's Manual, published by the American Planning Association, identifies a temporary moratorium as a smart growth tool used to avoid “a rush of development applications before a local government can adopt or amend its comprehensive plan or development regulations” (Meck, S. E.D., 2002a, p51). The Growing Smart Legislative Guidebook, also published by the American Planning Association, conveys that the “first purpose for moratoria is when a local government is preparing a comprehensive plan or extensive amendment of land development regulations” (Meck, S. E.D., 2002b, p 8-179). As such, a temporary moratorium is intended to assist in the successful adoption and application of an updated Comprehensive Plan and Land Development Code.

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. The City has a limited amount of commercial property and a need to support neighborhoods with commercial areas for goods, services, and employment. This moratorium will allow staff to determine whether new or amended Land Development Codes are needed pertaining to self-storage facilities and to prepare any needed regulations.

Presently there are approximately sixteen (16) self-storage facilities in or near the City of Palm Bay, and approximately six (6) new self-storage facilities currently under review. The City of Palm Bay Land Development Code requires Special Requirements and Conditions for approval of self-storage facilities in accordance with Section 185.088 which is applied through the Conditional Use (CU) process.

### **185.088 SPECIAL REQUIREMENTS AND CONDITIONS.**

(F) Self storage facilities may be granted with the following conditions:

(1) Design standards. The following minimum design standards shall apply to the construction of new self-storage facilities or, to the maximum extent feasible, the expansion or redevelopment of existing self-storage facilities.

(a) No door openings for any storage unit with the exception of emergency egress doors shall be constructed facing any residentially zoned property.

(b) The submitted conditional use site plan shall include a landscape plan.

(c) Interior traffic lanes shall be a minimum of thirty-five (35) feet wide for two-way traffic and a minimum of twenty-five (25) feet for one-way traffic, in order to accommodate loading and unloading as well as through and/or emergency traffic.

(d) The maximum storage unit size is limited to 300 square feet.

(e) There shall be no outside storage at the site.

(f) No roll-up door openings for any storage unit shall be constructed facing any right-of-way.

(g) Properties with the principal use as self-storage may locate along major collector or higher classified roads. For locations on lower classified roads, ground floor retail is required, or the building shall be setback from the roadway.

(h) Exterior surface materials of the primary/street facade shall be select high quality, human-scale building materials to reduce building massing and create visual interest.

(i) The base of a building (the first two to five feet above the sidewalks) shall be differentiated from the rest of the facade with treatments such as change in material and/or color.

(j) The primary/street facade of buildings shall incorporate no less than two (2) building materials including, but not limited to, tile, brick, stucco, cast stone, stone, formed concrete or other high-quality, long-lasting masonry material over a minimum seventy-five (75) percent of the surface area (excluding windows, doors and curtain walls.) The remainder of the wall area may incorporate other materials.

(k) Self-storage facilities resembling long, traditional warehouse buildings are prohibited. Self-storage facilities must be designed to emulate multi-family or office buildings compatible and in harmony with the surrounding area.

(2) Operational requirements. The following minimum operational standards shall apply to self-service storage facilities and tenants of individual storage units:

(a) Individual storage units shall not be used for activities such as residences, offices, workshops, studios, or hobby or rehearsal areas. Further, storage units shall not be used for manufacturing, fabrication or processing of goods, services or repair of vehicles, engines, appliances or other equipment, or any other industrial activity whatsoever. In addition, storage units shall not be used for commercial activity or places of business of any kind including, but not limited to, retail sales, garage or estate sales, or auctions, unless done so by the property management company.

(b) Storage of flammable, explosive, perishable or hazardous materials within individual storage units and on site is prohibited.

(c) Rental agreements shall provide tenants with written notice of the minimum operational standards set forth in this section and any other conditions imposed by the city.

**STAFF FINDINGS:**

The Moratorium meets the basic requirements of a Moratorium request.

# Project Details: MOR24-00001

## Project Type: Moratorium

Project Location: **Palm Bay, FL**  
Milestone: **Submitted**  
Created: **4/15/2024**  
Description: **Moratorium Self-Storage Facilities**  
Assigned Planner: **Lisa Frazier**

### Contacts

| Contact              | Information   |
|----------------------|---|
| Submitter            | Lisa Frazier, AICP, Growth Management Director<br>120 Malabar Road SE Palm Bay, FL 32907<br>(321) 733-3042<br>lisa.frazier@palmbayflorida.org |
| Supplemental Contact | Patricia D. Smith, City Attorney<br>120 Malabar Road SE Palm Bay, FL 32907<br><br>patricia.smith@palmbayflorida.org                           |
| Assigned Planner     | Lisa Frazier<br>120 Malabar Road SE Palm Bay, FL 32907<br><br>lisa.frazier@palmbayflorida.org   |

### Fields

| Field Label                    | Value   |
|--------------------------------|---|
| Section Proposed to be Changed |   |
| Proposed Language              | 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. |

# Project Details: MOR24-00001

Justification for Proposed Change

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. The City has a limited amount of commercial property and a need to support neighborhoods with commercial areas for goods, services, and employment. This moratorium will allow staff to determine whether new or amended Land Development Codes are needed pertaining to self-storage facilities and to prepare any needed regulations.

Ordinance Number

# Acknowledgement Log

MOR24-00001 | *Moratorium*

**Header:** Legal Acknowledgement

**Text:** I, the submitter, understand that this application must be complete and accurate before consideration by the City of Palm Bay and certify that all the answers to the questions in said application, and all data and matter attached to and made part of said application are honest and true to the best of my knowledge and belief.

Under penalties of perjury, I declare that I have read the foregoing application and that the facts stated in it are true.

**Accepted By:** Lisa Frazier

**On:** 4/15/2024 1:31:11 PM

MOR24-00001

Select Language ▼



Florida

PO Box 631244 Cincinnati, OH 45263-1244

GANNETT

**AFFIDAVIT OF PUBLICATION**

CITY OF PALM BAY  
attn: Accounts Payable  
City Of Palm Bay  
120 Malabar Rd Se  
Palm Bay FL 32907-3009

Ad#10078502 4/18/2024  
CITY OF PALM BAY, FLORIDA  
NOTICE OF PUBLIC HEARING  
TEMPORARY MORATORIUMS  
Notice is hereby given that a public hearing will be held by the Planning and Zoning Board/Local Planning Agency on May 1, 2024, and by the City Council on May 2, 2024, both to be held at 6:00 p.m., in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida, for the purpose of considering the following case(s):

- 1. MOR24-00001 – City of Palm Bay (Growth Management Department)  
A petition to establish 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.
- 2. MOR24-00002 – City of Palm Bay (Growth Management Department)  
A petition to establish 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.

The proposed requests are available for inspection in the Land Development Division. Interested parties may submit written communication and appear at the aforementioned hearings. If an individual decides to appeal any decision made by the Planning and Zoning Board/Local Planning Agency or the City Council with respect to any matter considered at this meeting, a record of the proceedings will be required and the individual will need to ensure that a verbatim transcript of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based (FS 286.0105). Such person must provide a method for recording the proceedings verbatim.

Please contact the Palm Bay Land Development Division at (321) 733-3041 should you have any questions regarding the referenced cases.  
Chandra Powell  
Planning Specialist

STATE OF WISCONSIN, COUNTY OF BROWN

Before the undersigned authority personally appeared, who on oath says that he or she is the Legal Advertising Representative of the Florida Today, a daily newspaper published in Brevard County, Florida; that the attached copy of advertisement, being a Legal Ad in the matter of Public Notices, was published on the publicly accessible website of Brevard County, Florida, or in a newspaper by print in the issues of, on:

04/18/2024

Affiant further says that the website or newspaper complies with all legal requirements for publication in chapter 50, Florida Statutes.

Subscribed and sworn to before me, by the legal clerk, who is personally known to me, on 04/18/2024

Legal Clerk

*Nancy Heyrman*  
\_\_\_\_\_  
Notary, State of WI, County of Brown  
5.15.27

My commission expires

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NANCY HEYRMAN  
Notary Public  
State of Wisconsin



## 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.

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Rob Medina, MAYOR

ATTEST:

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Terese M. Jones, CITY CLERK

Reviewed by CAO: \_\_\_\_\_

Applicant: City of Palm Bay  
Case: MOR24-00001

cc: Applicant  
Case File