

3. Ordinance 2024-24, 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 (MOR24-00002, 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 2024-24, 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 (MOR24-00002, 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 Car Wash Facilities.

Presently there are approximately seven (7) car wash facilities in or near the City of Palm Bay, and approximately one (1) new car wash facility 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 Mr. Boerema, **Seconded** by Mr. Warner to submit Case MOR24-00002 to the City Council for approval.

Result: Carried 3 to 2

Aye: Good, Boerema, Warner

Nay: Olszewski, Jordan

Abstain: None

ATTACHMENTS:

1. MOR24-00002 Staff Report
2. MOR24-00002 Application
3. MOR24-00002 Acknowledgment
4. MOR24-00002 Legal Ad
5. MOR24-00002 Ordinance



STAFF REPORT

LAND DEVELOPMENT DIVISION

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

landdevelopmentweb@palmbayflorida.org

Prepared by

Lisa Frazier, AICP, Growth Management Director

CASE NUMBER

MOR24-00002 Car Wash Facilities

PLANNING & ZONING BOARD HEARING DATE

May 1, 2024

PROPERTY OWNER & APPLICANT

City of Palm Bay (Growth Management Department)

PROPERTY LOCATION/ADDRESS

Citywide

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 FOR STAND-ALONE AUTOMATED AND SELF-SERVICE CAR WASHES; 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

SURROUNDING ZONING & USE OF LAND

North N/A

East N/A

South N/A

West N/A

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 Car Wash 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 stand-alone car washes and to prepare any needed regulations.

Presently there are approximately seven (7) car wash facilities in or near the City of Palm Bay, and approximately one (1) new car wash facility currently under review. The City of Palm Bay Land Development Code requires General Requirements and Conditions for approval of self-storage facilities in accordance with Section 185.087 which is applied through the Conditional Use (CU) process.

185.087 GENERAL REQUIREMENTS AND CONDITIONS.

Standards for approval. In its deliberations concerning the granting of a conditional use, the City Council shall carefully consider the following guidelines and standards:

(A) Adequate ingress and egress may be obtained to and from the property, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other emergency.

(B) Adequate off-street parking and loading areas may be provided, without creating undue noise, glare, odor or other detrimental effects upon adjoining properties.

(C) Adequate and properly located utilities are available or may be reasonably provided to serve the proposed development.

(D) Adequate screening and/or buffering will be provided to protect and provide compatibility with adjoining properties.

(E) Signs, if any, and proposed exterior lighting will be designed and arranged so as to promote traffic safety and to eliminate or minimize any undue glare, incompatibility, or disharmony with adjoining properties.

(F) Yards and open spaces will be adequate to properly serve the proposed development and to ensure compatibility with adjoining properties.

(G) The proposed use will not constitute a nuisance or hazard because of the number of persons who will attend or use the facility, or because of vehicular movement, noise, fume generation or type, of physical activity. The use as proposed for development will be compatible with the existing or permitted uses of adjacent properties.

(H) Development and operation of the proposed use will be in full compliance with any additional conditions and safeguards which the City Council may prescribe, including, but not limited to, reasonable time limit within which the action for which special approval is requested shall be begin or be completed, or both.

STAFF FINDINGS:

The Moratorium meets the basic requirements of a Moratorium request.

Project Details: MOR24-00002

Project Type: Moratorium

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

Contacts

Contact	Information
Submitter	Lisa Frazier, AICP, Growth Management Director 120 Malabar Road SE Palm Bay, FL 32907 (321) 733-3042 lisa.frazier@palmbayflorida.org
Supplemental Contact	Patricia D. Smith, City Attorney 120 Malabar Road SE Palm Bay, FL 32907 patricia.smith@palmbayflorida.org
Assigned Planner	Lisa Frazier 120 Malabar Road SE Palm Bay, FL 32907 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 FOR STAND ALONE AUTOMATED AND SELF-SERVICE CAR WASHES; ADOPTING FINDINGS OF FACT; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.
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 stand-alone car washes and to prepare any needed regulations

Project Details: MOR24-00002

Ordinance Number	
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Acknowledgement Log

 MOR24-00002 | *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 1:36:23 PM

 MOR24-00002

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

STATE OF WISCONSIN, COUNTY OF BROWN

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04/18/2024

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

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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

NANCY HEYRMAN
Notary Public
State of Wisconsin

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